

Florida House of Representatives



End-of-Session Summaries
May 1999

John Thrasher, Speaker

**HOUSE OF REPRESENTATIVES
ACADEMIC EXCELLENCE COUNCIL
1999 SUMMARY OF PASSED LEGISLATION**



SELECT COMMITTEE ON TRANSFORMING FLORIDA SCHOOLS

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Representative Alex Diaz de la Portilla, Vice Chair
Representative Jerry Melvin, Vice Chair

COMMITTEE ON EDUCATION K-12

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COMMITTEE ON COLLEGES & UNIVERSITIES

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***Representative Evelyn J. Lynn, Council Chair
May 1999***

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SELECT COMMITTEE ON TRANSFORMING FLORIDA SCHOOLS

1999 End-of-Session Summary

Bills that Passed Both Houses

CS/HB 751, 753 and 755--Bush-Brogan A+ Plan
by the Select Committee on Transforming Florida Schools; Diaz de la Portilla, Lynn and Melvin (CS/SB 1646 by Sullivan; CS/CS/SB 1756 by Cowin; and CS/CS/SB 2050 by Lee)

House Committee(s) of Reference: Select Committee on Transforming Florida Schools; Education Appropriations

This bill provides comprehensive reforms to current Florida School Code and practice. It has three distinct parts implementing substantial changes in school, educator, and student accountability; offers an opportunity for a scholarship for students in critically low-performing schools to go to private schools; seeks to improve the quality of the state's teachers and the training they receive through the teacher's colleges and professional development courses; and strengthens school truancy procedures and safety measures.

The bill includes the following provisions:

- **Authority to Enforce School Improvement:** SBE *must* intervene in the operation of a school district when one or more schools in the district have failed to make adequate progress for any 2 school years in a 4 year period. "2 years in a 4 year period" means if a school has an "F" in one year and in any of the prior 3 years, then the school would be considered failing for 2 years in a 4 year period.
- **Opportunity Scholarships Eligibility:** A public school student's parent or guardian may request an opportunity scholarship for the child to attend a private school if:
 - The student has spent the prior school year at a public school that has been designated "F," and that school has had 2 school years in any 4 year period of low performance; or the student has been assigned to such school for the next school year.
 - The student has obtained acceptance in a private school eligible for the program, and the parent has notified the school district requesting an opportunity scholarship no later than July 1 of the first year in which the student intends to use the scholarship.

For purposes of continuity of educational choice, the opportunity scholarship remains in force until the student returns to a public school or, if the student

chooses to attend a private school the highest grade of which is grade 8, until the student matriculates to high school and the public high school to which the student is assigned is an accredited school with a performance grade of "C" or better.

- **School District Obligations:** For each student enrolled in or assigned to a school designated "F" for *2 school years within a 4 year period* the school district must offer the student's parent or guardian an opportunity to enroll the child in a public school within the district designated a performance grade category "C" or higher. For school designations in the 1998-1999 school year, "A"- "F" corresponds with DOE rule of "levels V-I". The opportunity to continue attending a higher performing public school remains in force until the student graduates from high school.

School districts are responsible for transportation costs of students whose parents or guardians choose to enroll their child in a higher performing public school within the district. The district may use state categorical transportation funds for this purpose.

If a parent or guardian of an eligible child chooses to enroll *and* transport the student to a higher performing public school that has available space in an adjacent school district, that adjacent district must accept and report the student for purposes of funding in the FEFP.

The school district must provide locations and times for students participating in the opportunity scholarship program to take all required statewide assessments.

- **Students with Disabilities:** Students with special needs who are eligible to receive services from the school district, and who participate in the opportunity scholarship program, remain eligible to receive services from the school district as provided by federal or state law.
- **Private School Eligibility:** A private school must be a Florida private school, may be sectarian or nonsectarian, and must do the following:
 - Except for the first year of implementation, notify DOE and the local school district of its intent to participate in the opportunity scholarship program by May 1 of the school year preceding the school year in which it intends to participate. The notice must specify the grade levels and services available for the program.
 - Demonstrate fiscal soundness by being in operation for one school year or provide the DOE with a statement by a certified public accountant confirming that the private school desiring to participate is insured and the owner or owners have sufficient capital or credit to operate the school for the upcoming year serving the number of students anticipated with expected revenues from tuition and other sources that may be reasonably

expected. In lieu thereof, a surety bond or letter of credit for the amount equal to the scholarship funds for any quarter may be filed with the department.

- Comply with federal antidiscrimination provisions.
 - Meet state and local health and safety laws and codes.
 - Determine, on a random and religious-neutral basis and without regard to the student's past academic history, which opportunity scholarship students to accept. (Preference may be given to siblings of students already accepted under the program).
 - Be subject to the instruction, curriculum, and attendance criteria adopted by an appropriate nonpublic school accrediting body and be academically accountable to the parent or guardian as meeting the educational needs of the student. The private school must furnish a school profile which includes student performance.
 - The status of accreditation, as well as the highest degree attained by each faculty member, must be included in the school's annual report to DOE.
 - The private school must include in its school profile the percentage of teachers who hold regular Florida teaching certificates.
 - The private school must employ or contract with teachers who hold a BS or higher degree, or have at least 3 years teaching experience in public or private schools, or have special skills, knowledge, or expertise that qualifies them to provide instruction in subjects taught.
 - Comply with all state statutes relating to private schools.
 - Accept the opportunity scholarship amount provided by the state as full tuition and fees for each student.
 - Agree not to compel any opportunity scholarship student to profess a specific ideological belief, to pray, or to worship.
 - Adhere to the tenets of its published disciplinary procedures prior to the expulsion of an opportunity scholarship student.
- **Obligation of Program Participation:** In order for a student to remain eligible in the opportunity scholarship program, all of the following provisions must be met:
 - The student must remain in attendance throughout the school year, unless excused by the school for illness or good cause.
 - The student must comply fully with the school's code of conduct.
 - The student's parent or guardian must comply fully with the private school's parental involvement requirements, unless excused by the school for illness or good cause.
 - The student's parent or guardian must ensure that the student takes all required statewide assessments. The student may take the required tests at a location and time provided by the school district.
 - A participant who fails to comply with the requirements of program participation forfeits the opportunity scholarship.

- **Opportunity Scholarship Funding and Payment:** The maximum opportunity scholarship granted is equivalent to the base student allocation multiplied by the weighted cost factor for the educational program provided for the student multiplied by the district cost differential. In addition, the calculated amount must include the per student share of instructional materials, technology, and other categorical funds as provided for the scholarships in the GAA.

The *amount* of the opportunity scholarship that a parent receives will be the calculated amount described above or the amount of the private school's tuition and fees, whichever is less. (Eligible fees include textbook fees, lab fees, and other related instructional fees, including transportation).

The school district must report all students attending a private school under this program separately from those students reported for purposes of the FEFP.

A public or private school that provides services to students with disabilities must receive the weighted funding for such services. For purposes of calculating the opportunity scholarship, a student will be eligible for the amount of the basic cost factor if: 1) the student currently participates in Group 1 and is not identified as having a disability, or 2) the student currently participates in Group 2 and the parent has chosen a private school that does *not* provide additional services funded by Group 2 programs.

Following annual notification on July 1 of the number of participants from each district, DOE must transfer from the school district's appropriated funds the calculated amount from the FEFP and authorized categorical accounts for each participant to a separate account for the opportunity scholarship program.

Upon proper documentation, reviewed and approved by the DOE, the Comptroller shall make opportunity scholarship payments in four equal amounts no later than September 1, November 1, February 1, and April 1 of each academic year in which the opportunity scholarship is in force. The initial payment shall be made after DOE verification of admission acceptance, and subsequent payments shall be made upon verification of continued enrollment and attendance at the private school. Payment must be by individual warrant made payable to the student's parent or guardian and mailed by DOE to the private school of the parent's or guardian's choice, and the parent or guardian shall restrictively endorse the warrant to the private school.

- **Liability:** No liability will arise on the part of the state based on any grant or use of an opportunity scholarship.
- **Rulemaking:** The SBE may adopt rules to implement the opportunity scholarship program. These rules must include penalties for noncompliance with the school district obligations and the program participant obligations. The

regulatory authority of the state, its officers, or any school district to impose additional regulation of private schools beyond those reasonably necessary to enforce requirements of the opportunity scholarship program is *not* expanded.

- **Pilot Program for Students with Disabilities:** Creates a pilot program in Sarasota County to provide scholarships for students with disabilities who have failed to meet specific performance levels identified in the student's IEP. The parents may apply for a scholarship regardless of the grade of the school their child attends. Student participation is limited in the first year to 5 percent of students with disabilities, in the second year to 10 percent of students with disabilities, and in the third year and subsequent years to 20 percent of students with disabilities at the participating school.
- **Powers and Duties of the Commissioner:** Revises powers of the Commissioner to implement a program of school improvement and education accountability designed to provide all students the opportunity to make adequate learning gains in each year of school. The Commissioner shall *annually* prepare and publish reports giving statistics and other useful information pertaining to the opportunity scholarship program.
- **Educational Planning:** Enhances the comprehensive management information system to clarify that the system must be able to collect, via electronic transfer, all student and school performance data and produce a comprehensive annual report on school and district performance.
- **Educational Evaluation Procedures:** Requires the SBE to approve student performance standards in key academic subject areas and grade levels, and eliminates the requirement that the Commissioner designate program categories and grade levels for which performance standards are to be approved.
- **Student Assessment Program:** Establishes requirements for the design of the student assessment program. Requires the Commissioner to direct Florida school districts to participate in the administration of the NAEP.

DOE must develop a statistical assessment tool for measuring pupil progress. The system must measure student learning on teacher, school, and district levels. The system must look at "effects" of instruction and must be able to express the distributions in linear scales.

The student achievement testing program of the statewide assessment program must be administered annually in grades 3 through 10 to measure student proficiency in reading, writing, mathematics, and other content areas. Adds *science* to the areas of proficiency for which the statewide assessment must measure. Science proficiency must be measured statewide beginning in 2003.

All school districts must participate in the statewide assessment system, both the annual testing of children in grades 3 through 10 and the measurement for annual student learning and school performance. The districts must also report assessment results as required by the enhanced management information system.

Student performance data must be used in developing objectives of the school improvement plan, evaluation of instructional and administrative personnel, assignment of staff, allocation of resources, acquisition of instructional materials and technology, and promotion and assignment of students into educational programs.

The Commissioner must prepare annual reports that include the descriptions of the performance of all schools participating in the assessment program, including their major student populations. The reports must also include the median scores of all students who scored at or in the lowest 25th percentile of the state in the prior school year. Student records shall remain private.

Beginning with the 1998-99 school year, the annual report must identify schools as being "A" through "F", as defined by SBE rule:

- In the 1998-99 and 1999-2000 school years, a school's grade will be determined by students' FCAT scores and other appropriate performance data, including, but not limited to: attendance and dropout rates, school discipline data, and student readiness for college.
- Beginning with the 2000-2001 school year, a school's grade will be based on a combination of students' FCAT achievement scores, the learning gains of the students, and other appropriate performance data, including, but not limited to: attendance and dropout rates, school discipline data, and student readiness for college.
- Beginning with the 2001-2002 school year and thereafter, a school's grade will be based on student learning gains as measured by the annual student FCAT assessments in grades 3 -10, and on other appropriate performance data, including, but not limited to: attendance and dropout rates, school discipline data, cohort graduation rate, and student readiness for college.

For purposes of implementing the opportunity scholarship program, a school identified as critically low performing based on both 1996-97 and 1997-98 school performance data and state board-adopted criteria, and that receives a school grade of "F" based upon 1998-99 school performance data is considered to have failed to make adequate progress for 2 years. All other schools that receive a school grade of "F" based on 1998-99 school performance data are considered to have failed to make adequate progress for 1 year. Any of the 4 schools that were critically low performing in 1996-1997 and 1997-1998 that receives an "F" in 1998-1999 will be considered as failing for 2 years.

Beginning in the 1999-2000 school year, each school designated in performance grade category "A," making excellent progress, or as having improved at least two performance grade categories, shall have greater authority over the allocation of the school's total budget generated from the FEFP, state categoricals, lottery funds, grants, and local funds, as specified in state board rule. The rule will provide that the increased budget authority shall remain in effect until the school's performance grade declines.

Student assessment data used in determining a school grade must include: 1) the median scores of all eligible students enrolled in the school who were assessed on the FCAT, and 2) the median scores of all eligible students enrolled in the school who were assessed on the FCAT and scored at or in the lowest 25th percentile in the state the prior school year. The DOE shall study the effects of mobility on the performance of highly mobile students and recommend programs to improve the performance of such students.

Beginning with the 1999-2000 school year, schools will be given an improvement rating. The annual report must identify each school's performance as having improved, remained the same, or declined. The improvement rating is based on a comparison of the current year's and prior year's student and school performance data. Schools that improve at least one grade are eligible for school recognition awards.

School report cards must be published annually by the DOE and the school district. They must be in an easy-to-read format. Parents and guardians are entitled to a school report card for the school in which their child is enrolled.

- **Statewide Assessments**

- Must be capable of measuring a student's mastery of the Sunshine State Standards for that grade level and above.
- Must be capable of measuring the annual progress of each student in mastering the Sunshine State Standards.
- Must include measures in reading and mathematics in every grade level and measures for writing in grades 4, 8, and 10.
- Must include a norm-referenced subtest.
- Must measure science in grades 4, 8, and 10. Science is to begin statewide in 2003.
- Must be designed to protect integrity of the data and prevent score inflation.
- Must use measures of student learning to determine student, classroom, school, and district.
- Must use recognized approaches to statistical variance and estimating random effects.

Annual assessments that do not contain performance items shall be

administered no earlier than March of each school year. Subtests that contain performance items may be given earlier than March, if they provide valid data on comparisons of student learning from year to year.

Local assessments must measure subject and *grade levels* other than those required by state assessments. Assessments must be implemented statewide no later than the spring of the 2000-2001 school year. The Legislature may factor in school performance in calculating performance-based funding policy provided for in the GAA.

- **Comprehensive Revision of System of School Improvement:**
 - Adds conforming language to implement changes in Art. IX of the State Constitution.
 - Provides for schools designated “D” and “F” to receive assistance and intervention.
- **Implementation of System of School Improvement:**
 - Deletes requirements of the annual identification of the allocation and uses of Education Enhancement Trust Funds in annual reports by schools and school districts.
 - Precludes waiver of requirement for reporting of out-of-field teaching assignments. Adds provisions for deregulated status for schools (upon request of the school) designated as making excellent progress or schools that have improved at least two performance grade categories.
 - Requires DOE to assign a community assessment team to each school district with a school designated as “D” or “F” to review the school performance data and determine causes for low performance. The team must make recommendations to the school board, DOE, and SBE for implementing an assistance and intervention plan. The assessment team must be made up of a DOE representative, parents, business representatives, educators, and community activists and must represent the demographics of the community.
 - District school boards are encouraged to prioritize the expenditures of funds received from specific appropriation 110A of the General Appropriations Act of FY 1999-2000 to improved student performance in schools that receive a performance grade category designation of “D” or “F.”
- **Florida Commission on Education Reform & Accountability:** Repeals the Florida Commission on Education Reform & Accountability.
- **Powers of School Board:** The school board must develop a 2-year plan of increasing individualized assistance and intervention for each school in danger of not meeting state standards or making adequate progress.

The school board must notify the Commissioner and the SBE by the end of 2 years of any school that fails to make adequate progress in any 4 year period. School districts must provide intervention and assistance to schools in danger of being designated as “F,” failing to make adequate progress.

Authorizes school boards to declare an emergency when they have 1 or more schools that are “D” or “F” and with appropriate bargaining units are able to free these schools from contract restrictions that limit the school’s ability to implement programs and strategies needed to improve student performance.

- **Assessment Procedures and Criteria:** Revises the assessment procedure for school district instructional, administrative, and supervisory personnel. Beginning with full implementation of annual learning gains, such assessments must be based primarily on student performance.
- **Florida School Recognition Program:** Revises program to provide greater autonomy in addition to financial awards to schools that sustain high performance. The program must add school grade criteria and student learning gains in its initial eligibility criteria. Adds graduation rate and cohort graduation rate to the initial criteria for eligibility.
- **Pupil Progression:** Students must receive remediation or may be retained with an intensive program that is different from the previous year’s program and that takes into account the student’s learning style. School boards may not assign a student to a grade level based solely upon the student’s age or other factors that constitute social promotion. They are directed to allocate remedial and supplemental instructional resources first to students who fail to meet achievement performance levels required for promotion.

Requires the state board rules to specifically address the promotion of students with limited English proficiency and students with disabilities, and a school district to consider an appropriate alternative placement for a student who has been retained for 2 or more years.

- **Supplemental Academic Instruction Categorical Fund:** Creates the Supplemental Academic Instruction Categorical Fund to provide supplemental instruction to students in kindergarten through grade 12. Beginning with the 1999-2000 school year, FTE funding in the FEFP for instruction beyond the regular 180-day school year will only be provided for students enrolled in juvenile justice education programs.

Summer school FTE membership is as set forth in statute unless otherwise provided in GAA. Dropout prevention programs are included in Group 1 programs under s. 236.081(1)(d)3., F.S., meaning the cap on student enrollment in dropout prevention programs is removed. Each school district receiving funds

from the Supplemental Categorical must submit to DOE a plan which identifies students to be served and the scope of the supplemental instruction to be provided. Districts must also document the district's progress in the areas of academic improvement, graduation rate, dropout rate, attendance rate, retention/promotion rate. DOE must compile an annual report to be submitted to the presiding officers by Feb. 15.

- **FSU Magnet School:** Allows the FSU School, as a developmental research school, to expend from its FEFP or Lottery Enhancement Trust Fund allocation, the cost to the student of reading, writing, or math remediation for any graduate who requires postsecondary remediation at a postsecondary institution.
- **Definitions of FTE:** Eliminates certain provisions relating to calculations of the equivalent of a full-time student, and revises provisions relating to membership in programs scheduled for more than 180 days to include students enrolled in juvenile justice education programs.
- **Graduation and Dropout Rates:** Adopts new graduation and cohort graduation rates and study, which may include a 5-year rate as well as a 4-year rate. Beginning with the 2001-2002 school year, a school's performance grade category designation shall be based on performance data that includes the cohort graduation rate.
- **Performance Incentive Pay Policy:** By June 30, 2002, school boards are required to adopt a performance incentive pay policy which must base at least 5 percent of the salary of school administrators and instructional personnel on annual performance. The policy is subject to negotiation as provided in ch. 447, F.S. Employees who demonstrate outstanding performance must be allowed to receive 5 percent of their individual salary. Effective July 1, 2002, failure of a district to adopt and implement a performance incentive pay policy will also result in withholding allocations from the EETF.
- **Teacher Quality:** The bill implements a comprehensive approach to improve teaching quality by raising standards for certification, establishing a statewide system for inservice professional development, and increasing accountability for administrators. The Department of Education must review chapter 231, F.S., and recommend, by January 1, 2000, more rigorous standards for initial and continuing certification, and more alternative certification options for persons with specific subject-area expertise.
- **Principals and Assistant Principals:** The SBE is required to approve criteria for selection of assistant principals and principals, and authorize school districts to contract with private entities for assessment, evaluation, and training. Principals are assigned the responsibility for performance of school personnel. They are required to apply a personnel assessment system approved by the school board.

- **Management Training Act:** The SBE must adopt rules regarding the training of school district management personnel. The bill directs OPPAGA, in consultation with DOE, to conduct a comprehensive review of the Management Training Act to determine its effectiveness and submit recommendations to the Legislature by January 1, 2000. The Management Training Act is repealed effective June 30, 2000.
- **Duties of Instructional Personnel:** The primary duties of instructional personnel are to help students meet or exceed learning goals and state and local achievement requirements, and to help students master skills to graduate from high school and be prepared for postsecondary education, technical education, or work. These duties apply to instructional personnel whether they teach or function in a support role. The bill adds provisions for technology-based instruction with regards to teacher duties.
- **Teacher Teaching Out-of-Field:** School boards are required to adopt and implement a plan to ensure the competency of teachers with out-of-field teaching assignments. Out-of-field teachers must participate in a certification, staff development, or peer assistance program. The cost of the program must be funded by the school board.
- **Instructional Personnel Certification:** Adds increased certification requirements to assure that educational personnel in public schools possess appropriate skills in reading, writing, and mathematics so as to demonstrate an acceptable level of professional performance. Requires pedagogical knowledge to include the use of technology.
- **Position for which Certification Required:** The SBE rules must allow professional educators to add areas of certification to a professional certificate *without* completing associated course requirements if the certificate holder attains a passing score on an examination of competency in the subject area to be added and provides evidence of at least two years of satisfactory evaluations that considered performance. Individuals who have specific subject area expertise but who have not completed a standard teacher preparation program may participate in an alternative certification program for a professional certificate. Adds use of technology to enhance student learning to SBE school classification services.
- **Eligibility and Certification:** Requirements for individuals applying for a temporary or professional certificate on or after July 1, 2000, are expanded to include a demonstrated mastery of general knowledge, including the ability to read, write, compute, and use technology for classroom instruction. Acceptable ways of demonstrating mastery are passing scores on another state's general knowledge examination or another state's valid standard teacher's certificate. The other state must also have required general mastery. Minimum

competencies for a professional certificate are expanded to include, among other things, comprehension of algebra and recognition of signs of students' difficulty with the reading process and application of appropriate measures to improve students' reading performance.

- **Teacher Preparation:** While performing in a clinical field experience, *students* enrolled in a state approved teacher preparation program are given the same protections of law as certified teachers. Districts may design alternative preparation programs for certified teachers to add additional coverage to their certificates beyond the current limitations of certificates to teach exceptional education classes or other areas of critical shortage.
- **Assessment Procedures and Criteria:** School administrators are *added* to personnel subject to the assessment procedure. A new assessment criteria indicator is added relating to performance of students as measured by state assessments and by local assessments for subjects and grade levels not measured by the state assessment program. The ability to communicate with parents criterion is strengthened by new language requiring establishment and maintenance of a positive collaborative relationship with students' families to increase student achievement. Provides for the performance of students to be the primary basis for assessment procedure. Employees assigned to "D" or "F" schools who are rated unsatisfactory must be tested and demonstrate their ability to pass an appropriate test of general knowledge, subject area expertise, or professional competencies.
- **Education Standards Commission:** The Education Standards Commission is required to recommend to the SBE high standards. The standards must be consistent with the state's duty to provide a high-quality system of public education to all students.
- **Professional Development System:** The purpose of the professional development system is expanded to include enabling the school community to meet state and local student achievement standards and the state education goals.
- **Excellent Teaching Program:** Removes 50% bonus to districts for teachers who apply for the Excellent Teaching Program, which will free up additional dollars to serve more teachers.

Adds provisions for repayment of the certification fee within 60 days of notice of default by the employee through payroll deductions. Authorizes SBE to adopt rules for implementation of payment of fee subsidies, incentives, bonuses, and repayment of defaulted certification fees.

- **Public Accountability:** Revises legislative intent to establish a system that is

accountable for producing graduates with competencies and skills necessary to achieve the state education goals; help students meet high standards for academic achievement; maintain safe, secure classroom learning environments; and sustain school improvement and accountability.

- **Statewide System for Inservice Professional Development:** A statewide system of professional development is established to provide a wide range of targeted inservice training to teachers and administrators, designed to upgrade skills and knowledge needed to reach world class standards in education. A network of professional development academies in each region of the state operated in partnership with area business partners is established to develop and deliver high quality training programs purchased by the school districts. To be eligible for funds, the academy must demonstrate that it can effectively train teachers to improve their skills in elementary reading and math, the use of instructional technology, high school algebra, and classroom management.
- **School Safety and Discipline:** School improvement plans are required to include specific school safety and discipline strategies. Requires dropout prevention programs to employ diagnostic and assessment procedures. The educational program must provide character and law education, along with curricula and related services. Dropout prevention programs are expanded to include eligible students in grades 1 through 3.

DOE provides 1 year startup grants for school districts seeking partnerships with private nonprofit or for-profit providers or public entities to start second chance schools. Students seeking to reenter traditional schools must complete a *character education* program and demonstrate preparedness to reenter rather than have an evaluation by school district personnel.

Adds a provision that a child cannot be labeled as a potential dropout by being from a single parent family. Requires notification of parent prior to placement of student in academic intervention program. Principals must ensure the accuracy and timeliness of all school reports and provide staff training opportunities in addition to other duties. Principals who fail to comply are ineligible for performance pay policy incentives.

- **Raising Compulsory Age:** As authorized in the GAA, Manatee County shall implement a pilot project to raise the compulsory age of attendance from 16 to 18.
- **Enforcement of School Attendance:** Superintendents are responsible for enforcing attendance, including recommendations to the school board. School board policies must require that absences have parental justification, and must provide for tracking of absences and contacting parents. Revises court procedures and penalties for habitual truancy cases. The superintendent may

file a truancy or Children-In-Need-of-Services petition for a habitual truant.

Beginning in the 1999-2000 school year, an average daily attendance factor will be computed by dividing the total daily attendance for all students by the total student membership; this figure is then divided by the number of days in the regular school year (180 days). Beginning in the 2001-2002 school year, the district's FTE membership will be adjusted by multiplying by the average daily attendance factor.

The definition of habitually truant is revised. Creates provisions for truancy petition, prosecution, and disposition.

- **Professional Teacher Associations:** SBE must adopt rules to ensure that not-for-profit, professional teacher associations which offer membership to teachers, non-instructional personnel, and administrators, and which offer teacher training at no fee to the district be given equal access to voluntary teacher meetings, and teacher mailboxes for distribution of professional literature, and be authorized to collect voluntary membership fees.

Except as otherwise expressly provided in the bill, the effective date of this bill is upon becoming a law.

EDUCATION K-12

1999 End-of-Session Summary

Bills that Passed Both Houses

CS/CS/HB 09--School Districts/Patriotic Programs by Judiciary; Education K-12; Harrington & Others (SB 0330 by Carlton)

House Committee(s) of Reference: Education K-12; Judiciary; Education
Appropriations

The bill reinstates language that was repealed in 1997 by CS/HB 137 (Ch. 97-190, L.O.F.). The language was previously contained in s. 233.065, F.S., and prescribed specific rules regarding patriotic programs. The 1997 law created a new section of statutes, s. 233.0612, F.S., that generally authorized each school district to provide students with programs and instruction designed to encourage patriotism and greater respect for country.

This bill authorizes district school boards to adopt specific rules to require patriotic programs in order to encourage greater respect for the U.S. government, the national anthem, and the flag. It authorizes school boards to require that students and other civilians stand at attention, with men removing any headdress, when the national anthem is being played. It authorizes requiring that the pledge of allegiance to the flag be rendered by students in a prescribed manner, that is, recitation of "I pledge allegiance to the flag of the United States of America and to the republic for which it stands, one nation under God, indivisible, with liberty and justice for all" with the right hand placed over the heart, at the beginning of the school day in every public school within the district. School districts must post a notice in a conspicuous place that informs students that they have the right not to participate in reciting the pledge.

Students may be exempted from the requirement to recite the pledge upon written request by a parent or guardian.

The bill amends s. 256.11(2), F.S., to provide exceptions to the penalty for willful failure to display the flag in a public auditorium.

The effective date of the bill is July 1, 1999.

CS/HB 21--School Buses/Safety Belts by Education K-12; Chestnut & Others (CS/SB 1038 by Transportation; Cowin) (The provisions of this bill passed in CS/HB 1837 by Judiciary; Bilirakis; Cantens & Others)

House Committee(s) of Reference: Education K-12; Judiciary; Education Appropriations

This bill requires that all school buses purchased after December 31, 2000, and used to transport students in grades pre-K through 12 be equipped with safety belts or with any other restraint system approved by the Federal Government. A school bus purchased prior to December 31, 2000, is not required to be equipped with safety belts. The bill affects all school buses that are owned, leased, operated, or contracted by a public school district.

The bill requires that seat belts or a restraint systems be used by all passengers at all times while the bus is in operation, but specifies that the state, a school district, school employee, bus driver, teacher, or volunteer is not liable for personal injury caused by the passenger's failure to wear a safety belt.

The state, a school district, school bus operator under contract with a school district, or an agent or employee of a school district, including a teacher or volunteer, is not liable for personal injury of school bus passengers solely because the injured party was not wearing a safety belt.

The state, the county, a school district, school bus operator under contract with a school district, or an agent or employee of a school district, including a teacher or volunteer, is not liable in an action for personal injury to a school bus passenger for an injury caused by another passenger's use or non-use of a safety belt or restraint system in a dangerous or unsafe manner.

The bill provides that elementary schools are to receive first priority in the allocation of school buses equipped with seat belts. It allows school districts to enter into agreements to provide transportation only if the point of origin or termination of the trip is within the district's boundaries.

Motor vehicles subject to, and meeting all requirements of the United States Department of Transportation, Federal Motor Carrier Safety Regulations, are exempt from the provisions required in this bill.

The effective date of this bill is July 1, 1999.

HB 257--Florida School for the Deaf & Blind by Wiles (CS/SB 0994 by Education; Horne)

House Committee(s) of Reference: Education K-12; Education Appropriations

This bill amends several sections of the Florida Statutes pertaining to the Florida School for the Deaf and the Blind (FSDB). It removes a requirement that the

Department of Management Services (DMS) necessarily provide training, technical assistance, and building code interpretations with regard to uniform building codes for the facility. It permits the Florida School Improvement and Academic Trust Fund to be used to provide challenge grants and matching endowment grants to the FSDB Endowment Fund. It exempts FSDB from an existing cap regarding application for excess trust funds. The bill amends the statutorily prescribed mission statement for FSDB to better reflect a commitment to provide sensory impaired students with opportunities to maximize individual learning potentials and to become literate, employable, and independent life-long learners. The bill authorizes FSDB to contract with private attorney services without obtaining written approval of the Attorney General.

The effective date of this bill is July 1 of the year in which the bill becomes law.

**CS/HB 309--Schools/Courses of Study
by Education K-12; Diaz de la Portilla (CS/SB 1440 by Education;
Lee)**

House Committee(s) of Reference: Education K-12; Health Care Services

This bill reinstates language that was repealed in 1997 by CS/HB 137 (Ch. 97-190, L.O.F.). The bill authorizes certain exemptions from reproductive health, disease, HIV/AIDS instructional activities. Any student whose parent or guardian makes written request to the school principal must be exempted from the teaching of reproductive health or disease, including HIV/AIDS, its symptoms, development, and treatment. A student so exempted may not be penalized by reason of that exemption. Course descriptions for comprehensive health education must not interfere with the local determination of appropriate curriculum which reflect local values and concerns.

The effective date of this bill is upon becoming law.

**CS/HB 365--Schools/Character Development Program
by Education K-12; Stafford & Others (CS/SB 698 by Education;
Forman)**

House Committee(s) of Reference: Education K-12; Education Appropriations

This bill requires school boards to establish a character-development program, similar to Character First or Character Counts, in elementary schools. The program must be secular in nature and must stress such character qualities as attentiveness, patience, and initiative.

The bill also authorizes school boards to provide students with programs in ethics.

The effective date of this bill is July 1, 1999.

HB 1145--Educational Facilities

by Pruitt (CS/SB 1848 by Governmental Oversight and Productivity; Clary; and SB 1536 by Horne)

House Committee(s) of Reference: Education K-12; Community Affairs; Education Appropriations

This bill changes the Effort Index Grant Program, a long-term incentive program designed to provide \$400 million in funding for districts which meet a required level of local effort and still have need for new classrooms. The bill allocates money to the four districts identified by the SMART Schools Clearinghouse as being eligible for the original Effort Index Grant Program. These are:

- Clay County is allocated \$7,442,890;
- Dade County is allocated \$62,755,920;
- Hendry County is allocated \$1,628,590; and
- Madison County is allocated \$414,950.

These four districts receive funding based on the Classrooms First distribution formula for \$400 million.

The bill transfers \$100 million from the Effort Index Grant fund to the SIT Program to incentivize functional, frugal school construction while ending the SIT award for the operation of charter schools in the 1999-2000 school year.

The bill takes the remaining \$227 million and distributes it based on a Classrooms First distribution formula to districts which meet the following criteria:

- Levy full 2 mills;
- Levy voted millage equal to 2.5 mills;
- Levy impact fees greater than \$500/unit; and
- Receive proceeds from a ½ cent sales tax or local government infrastructure tax.

A district that chooses to pledge allocations from its portion of the Classrooms First bond program for the issuance of bonds must encumber those bond proceeds before pledging funds for the payment of debt service on bonds issued for the Effort Index Grant Program.

The bill amends statutes relating to leased facilities inspection and prototype schools to reflect current review practices. The bill exempts community colleges from operable glazing requirements and allows school districts to discontinue radon testing after a five-year period of testing with negative radon results. The Commissioner of Education must adopt rules to implement long-term use relocatable standards by July 1, 2000.

The effective date of this bill is July 1, 1999.

EDUCATION INNOVATION

1999 End-of-Session Summary Bills that Passed Both Houses

HB 241--School Enrollment/Swim Lessons by Rayson (CS/SB 1552 by Education and Dawson-White)

House Committee(s) of Reference: Education Innovation; Education/K-12;
Education Appropriations

This bill allows the school board of each district to establish a policy which requires a child, prior to enrollment in public school, to submit evidence of whether or not he or she has learned to swim. If the school board establishes such a policy, it will include provisions for providing information regarding available learn-to-swim programs in the community to the parent or guardian of each child who, upon enrollment, has not learned to swim.

No civil liability shall be incurred by any school district based on s. 232.042, F.S.

The effective date of this bill is upon becoming a law.

HB 2141--Deregulated Public Schools by Education Innovation & Melvin (Passed as CS/SB 2186 by Sullivan)

House Committee(s) of Reference: Education Appropriations

This bill extends the deregulated schools pilot program to the 2003-2004 school year. Lee County is added to the currently participating counties.

The bill allows the certification requirements of ch. 231, F.S., to be waived for teachers employed by or under contract at a deregulated public school. In order for this requirement to be waived, schools must provide appropriate justification with their request for waiver. The bill authorizes the Commissioner to waive these requirements relating to certification with justification from the school and district. The purpose of the waiver is to facilitate innovative practices and to allow local school selection of educational methods in the deregulated schools.

The effective date of this bill is July 1, 1999.

CS/HB 2147--Charter Schools by Education Innovation; Tullis & Others (CS/SB 2434 by Education; Kirkpatrick)

House Committee(s) of Reference: Education Innovation; Education Appropriations

This bill revises the charter school law to help facilitate the approval and planning process, to help evaluate student achievement progress, to help ensure the demonstration of competent financial and administrative management, and to allow access to capital funding for any capital outlay purpose. The bill allows eligibility for long term charters, provides for a Charter School Review Panel to help improve charter school operations and oversight, facilitates access to capital outlay funding from the state, and creates a charter school district pilot program. Specifically, the bill:

- Establishes an earlier deadline for school boards to receive charter school applications;
- Allows eligible students to transfer to charter schools outside their district;
- Allows charter schools to be operated or sponsored by a municipality;
- Requires charters to address current incoming baseline standards of student academic achievement, including how progress will be evaluated;
- Requires charters to demonstrate their operator's professional experience or competence in relation to the school's financial and administrative management;
- Authorizes long term charters: 15 years for municipal or other public entity-operated charter or for conversion charter schools and 10 years for not-for-profit-operated charters;
- Requires fingerprinting of governing board members;
- Precludes hiring persons known to have jeopardized child welfare or safety;
- Provides for timely receipt of any eligible federal funds; and
- Requires school districts to annually report on public school parental choice.

To review issues, practices, and policies of charter schools, the Department of Education will convene a Charter School Review Panel. It will make recommendations for improving charter school operations and oversight and for ensuring best business practices at and fair business relationships with charter schools.

The bill replaces statutory references to PECO funding with charter school capital

outlay funding as appropriated by the Legislature from General Revenue. It allows charter schools to access capital funding for any capital outlay purpose, including lease of facilities and purchase of vehicles.

Additionally, the bill removes the provision that charter schools must be in operation for at least two years before they begin receiving capital funds. The written agreement for lien provisions is changed from being between the charter school and the department to being between the charter school and the school district. The state and the school districts are indemnified from all financial arrangements made with other sources.

The bill creates a charter school district pilot program. The charter will be a performance contract between the State Board of Education and up to six school districts. The Board will give priority to Hillsborough and Volusia Counties upon their submission of a completed pre-charter agreement or proposal for a charter school district. The purpose of this pilot program is to examine a new relationship between the State Board of Education and school districts that may produce significant improvements in student achievement and school management while at the same time complying with constitutional requirements assigned to each entity.

Except as otherwise provided herein, this act shall take effect July 1, 1999.

**CS/HB 259--School Readiness Program
by Education Innovation; Warner & Others (The provisions of this
bill passed as CS/CS/SB 366 by Fiscal Policy; Education;
Holzendorf; Kirkpatrick & Others)**

House Committee(s) of Reference: Education Innovation; Education Appropriations

This bill creates the Florida Partnership for School Readiness, which is assigned to the Executive Office of the Governor for administrative purposes. The partnership will be responsible for adopting and coordinating programmatic, administrative, and fiscal policies and standards for all school readiness programs. The members of the partnership will be the Lieutenant Governor or his designee, the Commissioner of Education, Secretary of Children and Family Services, Secretary of Health, chair of the WAGES program board of directors, chair of the Child Care Executive Partnership board, and 10 private citizens who are business, civic, and community leaders. The Governor will appoint the ten private citizens; eight of the appointees must come from lists provided by the President of the Senate and the Speaker of the House of Representatives.

By July 1, 2000, the partnership must adopt a statewide system for measuring school readiness; the system will be prepared and submitted to the State Board of Education and must include a uniform screening. The uniform screening must provide objective data regarding the following specific expectations for school readiness: immunizations

and health requirements; physical development; compliance with rules, limitations, and routines; ability to perform tasks; interactions with adults and with peers; ability to cope with challenges; self-help skills; ability to express needs; verbal communication skills; problem-solving skills; following verbal directions; demonstration of curiosity, persistence, and exploratory behavior; interest in books and other printed materials; paying attention to stories; participation in art and music activities; ability to identify colors, geometric shapes, letters of the alphabet, numbers, and spatial and temporal relationships. The Department of Education will adopt the school readiness screening developed by the partnership. All school districts will administer the kindergarten uniform screening to each child when they enter kindergarten. By December 31, 2000, the partnership will adopt a system for evaluating the performance of students through the third grade to compare the performance of those who participated in school readiness programs with the performance of those who did not participate in school readiness programs. By June 1, 2000, the partnership will also adopt performance standards and outcome measures for school readiness programs.

The partnership must work with the Postsecondary Education Planning Commission and the Education Standards Commission and assess the expertise of public and private Florida postsecondary institutions in the areas of infant and toddler developmental research; the related curriculum of training, career, and academic programs; and the status of articulation among these programs. The Commissioner of Education, in conjunction with the partnership, will conduct a statewide assessment to determine the extent and nature of instruction available for personnel in early childhood education and child care as well as an assessment of the market demand for trained personnel. Based on this assessment, the Articulation Coordinating Committee will establish a career path for school readiness-related professions.

Local governance of the school readiness system will be by coalitions of 18 to 25 individuals, with more than one-third of the members being from the private sector. Neither the members nor their families may earn an income from the early education and child care industry. Members of the coalition will include a Department of Children and Family Services (DCFS) district administrator, and one member appointed by him/her, a district school superintendent, a regional workforce development board chair or director, a county health department director, a children's services council or juvenile welfare board chair or executive director, a child care licensing agency head, one member appointed by a board of county commissioners, one by a district school board, a central child care agency administrator, a Head Start director, a representative of private child care providers, and a representative of faith-based child care providers. The additional members will be appointed by the coalition from a list obtained from a chamber of commerce or economic development council.

Coalition members are subject to ethics laws; multicounty coalitions must include representation from each county; and terms of appointed members are staggered. As local coalitions form, the partnership will approve their composition and their school readiness plans. The coalition may not implement its plan until it is approved by the

partnership. Then the plan and the services provided will be controlled by the coalition. The program must serve as many children as were served prior to implementation as long as funding or eligible populations do not decrease. There must be a community plan to address all eligible children and to meet the needs of all applicable licensing guidelines. The program must enhance the cognitive, social, and physical development of children and must contain: developmentally appropriate curriculum; character development; age-appropriate assessment; pretest and posttest; appropriate ratios; healthful, safe environment; and a resource and referral network.

The bill establishes initiation grants for early development of local coalition plans: those approved by January 1, 2000, are eligible for \$50,000; those approved by March 1, 2000, are eligible for \$25,000. The bill also establishes an incentive bonus, subject to appropriation, for any plan approved by the partnership that clearly shows enhancement in the quality and standards of the school readiness program without diminishing the number of children served in the program. If a coalition's plan would serve fewer than 400 children ages birth to five years, the coalition must either join with another coalition to form a multi-county coalition, enter into an agreement with a fiscal agent to serve more than one coalition, or demonstrate to the partnership its ability to effectively and efficiently implement its plan as a single-county coalition and meet all required performance standards and outcome measures.

A coalition's school readiness program will have available to it funding from all the coalition's early education and child care programs that are funded with state, federal, lottery, or local funds, including Florida First Start programs, Even-Start literacy programs, prekindergarten early intervention programs, Head Start programs, programs offered by public and private providers of child care, migrant prekindergarten programs, Title I programs, subsidized child care programs, and teen parent programs, together with any additional funds appropriated or obtained for the coalition's program. Coalitions that are approved by the partnership by July 1, 2000, will receive their initial year of funding in 2000-2001. Administrative costs must not exceed five percent unless specifically waived by the partnership.

Funding will be distributed as block grants by the partnership to the coalitions. If by March 1, 2001, a county does not have an approved coalition, in fiscal year 2001-2002, the partnership will request proposals for the development and operation of a coalition in that county. The intent is to establish an integrated and quality seamless service delivery system for all publicly funded early education and child care programs operating in Florida. By February 15, 2000, the partnership will present to the Legislature a plan for combining funding streams for school readiness programs into a School Readiness Trust Fund and recommendations for providing necessary transportation services for the school readiness programs. For the fiscal year 1999-2000, the recurring sum of \$330,000 is appropriated from General Revenue to the Executive Office of the Governor to implement the School Readiness Act.

A coalition that is not a legally established corporate entity must enter into a contract

with a fiscal agent who will provide financial and administrative services according to the contract. The fiscal agent may be a public entity or a private nonprofit organization. If the fiscal agent is a provider, it must act on policy direction from the coalition.

The following statutes will not apply to local coalitions with approved plans: ss. 125.9001(2)(a)3., 228.061(1) and (2), 230.2306, 411.204, 411.221, 411.222, and 411.232, F.S. A school readiness coalition may apply to the Governor and Cabinet for a waiver of, and the Governor and Cabinet may waive, any of the provisions of ss. 230.2303, 230.2305, 230.23166, 402.3015, 411.223, and 411.232, F.S., if the waiver is necessary for implementation of the coalition's school readiness plan.

Eligibility priority for participation in the school readiness program is established for children birth to kindergarten who are at risk or economically disadvantaged (below 150 percent of federal poverty level). Once in this program, the child remains eligible based on a sliding fee scale. Parental choice applies to all school readiness programs. A unified waiting list, single point of entry, and sliding fee scale also apply to all programs.

The State Coordinating Council for Early Childhood Services will be reconstituted as a 15-member advisory body to recommend to the partnership methods to increase the involvement of public-private partnerships in school readiness programs in order to maximize the availability of federal funds and to effectively use available resources through cooperative funding and coordinated services. The council, which is established in s. 411.222(4), F.S., will be repealed in 2000.

The bill establishes a School Readiness Program Estimating Conference.

Except as otherwise expressly provided in the bill, the effective date of the bill is upon becoming a law.

COMMUNITY COLLEGES & CAREER PREP

1999 End-of-Session Summary

Bills that Passed Both Houses

HB 667--Postsecondary Remediation

by Greene & Others (Passed as SB 1794 by Kirkpatrick)

House Committee(s) of Reference: Community Colleges & Career Prep; Education Appropriations

This bill amends s. 240.117, F.S., to allow students to repeat a postsecondary remedial course one time and still be eligible for state funding. Students who enroll in the same remedial course more than twice would be required to pay 100 percent of the cost of instruction and would not be eligible for state funding. This change makes the policy for students enrolled in remedial courses consistent with the policy for students enrolled in college credit courses.

The bill provides an exemption for extenuating circumstances for students who fail or withdraw from a college-credit course. This change is consistent with the state policy for remedial courses.

The bill links existing incentive funds to the effective implementation of remedial reduction plans (required by s. 240.1161, F.S.). The change provides an additional incentive for school districts and community colleges to work together to decrease the incidence of postsecondary remediation, thereby reducing the cost of remediation for the state. The bill also specifies that local articulation agreements shall include strategies for improving the preparation of school teachers.

The effective date of the bill is July 1, 1999.

CS/CS/HB 713--Criminal Justice Training

by Education Appropriations; Community Colleges & Career Prep; Kelly & Wise (Passed as CS/SB 1664 by Horne)

House Committee(s) of Reference: Community Colleges & Career Prep; Juvenile Justice; Education Appropriations

This bill establishes two pilot criminal justice training centers: The Pat Thomas Center at Tallahassee Community College and The Criminal Justice Academy at St. Johns River Community College; and requires the existing criminal justice training centers in those two counties to transfer to the specified community colleges effective July 1, 1999.

The bill transfers ownership of state owned educational facilities, plants, and equipment to the community college; provides that facilities or plants which were paid for, in whole or in part, with local tax funds shall be leased; provides for a study to determine a purchase price for facilities; and, provides that issues relating to leases would be mediated by the Criminal Justice Standards and Training Commission (CJSTC).

The bill requires each pilot center to establish an advisory committee made of up professionals from the fields of each training program (law enforcement and corrections) and requires the community college to develop an articulation agreement with the State University System to facilitate the transfer of program graduates to an upper division program.

The bill permits the community colleges to transfer school district criminal justice training staff, but does not require the staff transfers. Additionally the bill provides the following funding provisions:

- Directs the Department of Education to shift all funds generated by students including FTE, recurring, and nonrecurring, from the school district to the community college;
- Prohibits fees for continuing criminal justice workforce education from exceeding 25 percent of costs (rather than 50 percent currently);
- Provides that school districts which transfer programs will receive 15 percent of the funding generated under the Florida Education Finance Program (FEFP) in 1996-97; and
- Provides that community colleges will receive 90 percent of funds generated in the FEFP in 1996-97 and school districts will retain the remaining 10 percent.

The bill takes effect upon becoming a law.

**HB 987--Florida Workforce Investment Act
by Community Colleges & Career Prep; Harrington & Others
(Some of the provisions of this bill passed as part of CS/CS/SB
1566 by Fiscal Policy; Commerce and Economic Opportunity;
Kirkpatrick and Others)**

House Committee(s) of Reference: Business Development & International Trade;
Education Appropriations

This bill provides guiding principles for the implementation of the federal Workforce Investment Act of 1998, Pub. L. No. 105-220 and specifies that secondary vocational education is to be included in the five year plan required by federal law.

The bill provides that Individual Training Accounts must include performance payments and requires that five percent of the state-wide activity funding shall fund incumbent worker training. The bill requires each regional workforce development board to establish a high skill/high wage committee, with representation of both public and private educational agencies. The high skill/high wage committee will make recommendations regarding policies to enhance responsiveness of high skill/high wage training to economic development and the integrated use of federal and state workforce development funds.

The bill requires the Workforce Development Board of Enterprise Florida (also known as the Jobs and Education Partnership) to develop a plan to implement the Individual Training Accounts provided in Pub. L. No. 105-220. The plan must ensure the fair participation of public and nonpublic postsecondary institutions and must prohibit the use of unlawful remuneration to students in return for attending an institution.

The bill aligns some of the performance measures used in the Workforce Development Education Fund (WDEF), with those required in Pub. L. No. 105-220 and the performance tiers specified in the Workforce Florida Act of 1996.

The effective date of the bill is July 1, 1999.

HB 1007--Community College Distance Learning by the Committee on Community Colleges & Career Prep; Harrington & Others (Passed as part of SB 1288 by Horne and as part of HB 2123 by Utilities & Telecommunications and Rojas)

House Committee(s) of Reference: Education Appropriations

This bill authorizes the State Board of Community Colleges (SBCC) to develop and produce work products that provide for consolidated and coordinated program development and education endeavors to support distance learning instruction which are subject to trademark, copyright, or patent statutes.

It authorizes the SBCC to enter into binding agreements with personnel, organizations, corporations, or government entities employed in the development of work products to establish the percentage of ownership of such trademarks, copyrights, or patents.

The bill specifically authorizes the SBCC to secure letters of patent, copyright, and trademarks; license, lease, manufacture, and sell work products; protect against improper infringement; and enforce the collection of sums due the board for the manufacture or use of products.

The bill authorizes the SBCC to work through a not-for-profit organization for the collection of funds generated through the licensure and sale of products to private and

out-of-state entities. These funds are to be used to cover the costs of producing and disseminating educational materials and to enhance program development.

The duties of the Department of Education concerning distance learning, including managing the state's satellite transponder are identified. The bill specifies an allocation formula for the equal distribution of revenues generated by the transponder between the Department of Education, the State Board of Community Colleges, and the State University System.

The Florida Distance Learning Network (FDLN) is reconstructed from its corporate body status to an advisory council within the Department of Education which assists the DOE in carrying out its duties relating to distance learning. The number of members on the advisory council is limited to not more than 13. The FDLN statute is moved from chapter 364, Florida Statutes, to chapter 241, Florida Statutes, placing it in the Florida School Code.

The effective date of the bill is July 1, 1999.

CS/HB 1697--Student Fees by Education Appropriations, Betancourt & Others (Passed as part of SB 1288 by Horne)

House Committee(s) of Reference: Community Colleges & Career Prep; Business Development & International Trade; Education Appropriations

This bill provides specific statutory authority for community colleges to charge fees that are currently authorized in rule and prohibits community college boards of trustees from charging fees that are not specifically authorized in statute. The bill:

- Authorizes school boards and community colleges to establish specific fees for workforce development instruction not reported for state funding purposes (codifies current practice);
- Authorizes the establishment of a separate technology fee for associate degree programs and courses that shall not exceed \$1.80 per credit hour or its equivalent;
- Specifies that matriculation and tuition fees may vary from 10 percent below to 15 percent above the fee schedule adopted by the State Board of Community Colleges provided that any amount from 10 to 15 percent above the fee schedule be used only to support safety and security purposes. In order to assess an additional amount for safety and security purposes, colleges must provide the State Board of Community Colleges written justification to which demonstrates a need for safety and security improvements;
- Specifies that, for 1999-2000, the total fee amount which each community college

may assess for a combination of technology and safety and security purposes shall not exceed 5 percent of matriculation and tuition fees (this ensures that fees will increase by a *maximum* of 5 percent). If colleges were already assessing a safety and security fee, they may increase the total amount of fees by no more than 5 percent of the amount which was charged in 1998-1999;

- Provides authority for community college boards of trustees to pledge parking fee revenues as a dedicated revenue source for the repayment of debt in the form of revenue bonds or lease-purchase agreements. Fifty percent of technology fee revenues may also be used for lease-purchase agreements; and
- Increases the authority for fees to be charged, but maintains the flexibility at the local level to make the decision whether or not to charge the fees. However, fees may be raised by no more than 5 percent of matriculation and tuition fees.

One provision from HB 393, relating to workforce education, was amended onto, and passed in, SB 1288. The provision clarifies that fees for continuing workforce education (CWE) will be determined at the local level. The requirement for the total CWE fees collected to equal the amount appropriated for CWE from the Workforce Development Education Fund (a 50/50 match) is maintained.

The effective date of the bill is July 1, 1999.

COLLEGES & UNIVERSITIES

1999 End-of-Session Summary

Bills that Passed Both Houses

HB 407--Board of Regents/Member Terms by Casey (SB 2058 by Grant) (The provisions of this bill passed as part of CS/CS/SB 1924, 2nd Eng, by Governmental Oversight and Productivity and Senator Grant)

House Committee(s) of Reference: Colleges & Universities; Governmental Operations

This bill restores the terms of office for members of the Board of Regents to six years. The terms of office for members of the Board of Regents appointed after July 1, 1998, were reduced from six years to four years by the 1998 Legislature (Section 53, Ch. 98-421, L.O.F.).

The effective date of this provision is July 1, 1999.

HB 765--Site-Determined Baccalaureate Degree by Lynn & Others (SB 664 by Sullivan)

House Committee(s) of Reference: Colleges & Universities; Community Colleges & Career Prep; Education Appropriations

This bill creates the site-determined baccalaureate degree access program and authorizes categorical funding for the program. The program is designed to increase access to baccalaureate degree opportunities by providing for upper level instruction at the campuses of community colleges. The program is voluntary and does not preclude other mutually agreed upon arrangements between community colleges and four-year postsecondary institutions related to the delivery of baccalaureate degree programs at community college sites.

In order for a community college to participate in the program, it must identify baccalaureate degree programs that are not currently offered at the community college but would meet the academic and economic development needs of one or more communities within the college's service area, determine the number of students interested in pursuing each proposed baccalaureate degree program, and submit a proposal to the Postsecondary Education Planning Commission requesting approval and funding level for the proposed baccalaureate degree program. Only regionally accredited four-year postsecondary institutions that are chartered and primarily located

in Florida are permitted to provide upper level instruction in an approved baccalaureate degree program. The community college is required to enter into an agreement containing certain specifications with the four-year postsecondary institution selected to provide the upper level instruction.

The bill also directs the Postsecondary Education Planning Commission to evaluate each site-determined baccalaureate degree access program according to specifications outlined in the bill. Based on its evaluation, the commission must provide recommendations regarding whether or not a site-determined baccalaureate degree access program should be continued and/or modified.

The bill does not authorize community colleges to offer baccalaureate degree programs. If no four-year postsecondary institution is willing to offer an approved baccalaureate degree program, a community college may ask the Postsecondary Education Planning Commission to evaluate its request to offer the program. Assuming the Commission recommends that a community college should offer the program, the Legislature must still provide statutory authority for the community college to offer the specific baccalaureate degree program.

The bill's fiscal impact on state funds is directly related to the number of site-determined baccalaureate degree access programs approved and the number of students enrolled in each of the programs. Consequently, the fiscal impact on state funds is presently indeterminate. Funding for a proposed baccalaureate degree program is subject to legislative appropriation and may not be used to support the construction, renovation, or remodeling of facilities. A community college must receive funding on a per-credit-hour basis which is an amount equal to state funds, excluding student fees, that is appropriated to the State University System for each full time equivalent student enrolled in upper level courses. The community college must distribute its funding to the four-year postsecondary institution offering the upper level instruction at the rate specified in the approved agreement.

The effective date of this bill is upon becoming a law.

HB 805--College Reach-Out Program (PCB CU 99-03) by Colleges & Universities; Casey & Others (SB 1292 by Education)

House Committee(s) of Reference: Education K-12; Education Appropriations

This bill readopts s. 240.61, F.S., the College Reach-Out Program. The College Reach-Out Program (CROP), established in statute by the 1989 Legislature, was created to encourage economically and educationally disadvantaged students who would otherwise be unlikely to pursue a college education to seek and complete a postsecondary education. The goals of the program include: motivating students to pursue a postsecondary education; developing students' basic learning skills;

strengthening students' and parents' understanding of the benefits of postsecondary education; and, fostering academic, personal, and career development through supplemental instruction.

Statutory provisions relating to the program are scheduled for repeal effective July 1, 1999, and require legislative review prior to that time. The House of Representatives' Committee on Colleges & Universities reviewed the program and recommended reenactment of the statutory provisions relating to the program.

The effective date of the bill is upon becoming law.

HB 1411--Florida College Savings Program by Dockery & Others (The provisions of this bill passed as SB 1984 by Dyer)

House Committee(s) of Reference: Colleges & Universities; Finance & Taxation; Education Appropriations

This bill establishes the Florida College Savings Program as a supplement and alternative to existing programs that provide incentives for the planning and saving for postsecondary education. The program is designed to allow individuals to contribute funds to an account that are subsequently invested in order to pay for the higher education expenses of designated beneficiaries. The program will be administered by the Florida Prepaid College Board.

The Florida College Savings Program provisions include the following requirements which must be met for a state program to be classified as a Qualified State Tuition Program:

- The Florida Prepaid College Board may only receive cash contributions;
- Contributors and beneficiaries are not permitted to direct the investment of contributions;
- Contributions and earnings from the program cannot be used to secure a loan;
- The Florida Prepaid College Board must establish safeguards in order to prevent contributions that exceed projected higher education expenses;
- The Florida Prepaid College Board must maintain separate accounts for each designated beneficiary;
- Penalties may not be assessed on any refunds of earning from the program if a beneficiary receives a scholarship, dies, becomes disabled, or receives payments that are in accordance with federal law; and

- A penalty equal to 10 percent of earnings from the program must be assessed on a refund that is provided for reasons that do not include a beneficiary receiving a scholarship, dying, becoming disabled, or receiving payments that are in accordance with federal law.

The earnings generated from the investments are not taxed while the funds are in the Florida College Savings Program. Instead, the earnings generated from the investments are taxed once they are used to pay for a beneficiary's higher education expenses. However, the earnings generated are taxed against a beneficiary's gross income and not a contributor's gross income.

The Florida College Savings Program covers qualified higher education expenses which include the costs associated with tuition, fees, books, supplies, equipment, and room and board.

The effective date of the bill is upon becoming law.

**HB 1495--Institute on Urban Policy & Commerce
by Representative Bradley & Other (SB 1054 by Hargrett) (The
provisions of this bill passed as part of CS/CS/SB 1566, 1st Eng,
by Fiscal Policy; Commerce and Economic Opportunities; and
Kirkpatrick)**

House Committees of Reference: Colleges & Universities; Community Affairs;
Business Development & International Trade; Education Appropriations

This bill establishes in statute the Institute on Urban Policy and Commerce as a Type I Institute under the Board of Regents at Florida Agricultural and Mechanical University. The major purposes of the Institute are to pursue research on urban policy issues confronting the inner-city areas and neighborhoods in the state; influence the equitable allocation and stewardship of financial resources; provide training in community planning and design; assist with the planning, development, and capacity building of urban area nonprofit organizations and government agencies; develop and maintain a data base relating to inner city areas; and support the community development efforts in inner city areas, neighborhood-based organizations, and municipal agencies.

The bill directs the Institute to research and recommend strategies concerning critical issues facing the under-served population in urban communities, including but not limited to, transportation and physical infrastructure; affordable housing; tourism and commerce; environmental restoration; job development and retention; child care; public health; life-long learning; family intervention; public safety; and community relations.

The bill permits the Institute to establish regional urban centers to be located in the inner cities of St. Petersburg, Tampa, Jacksonville, Orlando, West Palm Beach, Ft. Lauderdale, Miami, Daytona Beach, and Pensacola to assist urban communities with critical economic, social, and educational problems affecting the under-served population.

The bill requires the Institute to submit an annual report of its findings and recommendations to the Legislature and the Governor. The Governor must submit an annual report to the Legislature on the unmet needs in the state's urban population.

The effective date of these provisions is July 1, 1999.

**HB 1933--Postsecondary Education (PCB CU 99-05)
by Governmental Operations; Colleges & Universities; Casey &
Others (The following provisions of this bill passed as part of
CS/CS/SB 1924, 2nd Eng, by Governmental Oversight and
Productivity and Grant)**

House Committee(s) of Reference: Governmental Operations; Education
Appropriations

This bill modifies a number of administrative provisions relating to the State University System (SUS). It expands eligibility for participation in the State University System Optional Retirement Program to all positions classified as Administrative and Professional (A&P). It increases the thresholds that are applicable to state universities for "continuing contracts" under the "Consultants' Competitive Negotiation Act" from \$500,000 to \$1 million for construction and from \$25,000 to \$100,000 for study activities. The bill repeals statutory provisions relating to an unfunded trust fund (*Women's Athletics Trust Fund*).

The bill provides an appeals process for students who fail to meet the initial GPA requirements for admission to a state university. A student who is denied admission for failure to meet the GPA requirement may request a recalculation of the high school GPA including the grades earned in up to three credits of advanced fine arts courses.

The bill eliminates the requirement that engineering faculty must be registered engineers for the purpose of teaching principles and methods of engineering design.

It modifies reporting requirements for universities that receive funding from the Brain and Spinal Cord Injury Rehabilitation Trust Fund.

The bill makes retroactive to May 5, 1997, postsecondary education fee exemptions for children adopted from the Department of Children and Family Services.

The bill permits county educational facilities authorities to provide loans to private higher education institutions in anticipation of tuition revenues.

The effective date of these provisions is July 1, 1999.

CIVIL JUSTICE COUNCIL

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CIVIL JUSTICE COUNCIL

1999 End-of-Session Summary

Bills that Passed Both Houses

HB 145 -- Child Support by Representative Effman (CS/SB 268 by Klein)

House Committee(s) of Reference: Family Law and Children; Judiciary

This bill authorizes the court to order a payment of child support which varies from the guideline amount whenever any of the children are required by a court order or a mediation agreement to divide their time between the parents, whether the living arrangement is temporary or permanent.

An amendment adopted by the Committee on Family Law and Children provides that whenever a particular shared parental arrangement requires each child to spend a substantial amount of time with each parent, the court shall adjust the child support award based on criteria established in this bill. The court must consider: the amount of time each child will spend with each parent; the needs of the child; the direct and indirect financial expenses for each child; the comparative income of each parent; the station in life of each parent and each child; the standard of living experienced by the entire family during the marriage; and the financial status and ability of each parent. The terms "direct financial expenses" and "indirect financial expenses" are defined.

The effective date of this bill is October 1, 1999.

HB 333 -- Jeremy Fiedelholz Safe Day Care Act by Representative Effman (passed as SB 750 by Forman)

House Committee(s) of Reference: Family Law and Children; Children and Families; Crime and Punishment; Criminal Justice Appropriations

This bill creates the "Jeremy Fiedelholz Safe Day Care Act".

Current law provides that certain misrepresentations, knowingly made, regarding the licensure or operation of a child care facility or family day care home are punishable as a first degree misdemeanor. This bill adds to these misrepresentations including, but not limited to: misrepresentation as to the number of children in the facility or home; the part of the facility or home designated for child care; the qualifications of child care personnel; whether the personnel have statutorily required training; and whether the facility or home complies with the statutory screening requirements.

This bill includes family day care homes in the types of facilities that must comply with certain provisions of the law. If a parent or guardian of a child relies upon a providers misrepresentation and the child suffers a serious injury or death as a result of negligence or an intentional act by child care personnel, then the providers misrepresentation is punishable as a second degree felony offense.

The effective date of this bill is October 1, 1999.

HB 481 -- Kayla McKean Child Protection Act by Representative Murman (passed as CS/CS/SB 338 by Cowin)

House Committee(s) of Reference: Family Law and Children; Children and Families; Health and Human Services Appropriations

This bill creates the “Kayla McKean Child Protection Act”.

This bill addresses gaps in the statutory framework of Florida’s child protection system by amending a number of provisions of chapter 39, Florida Statutes, related to the central abuse hotline of the Department of Children and Family Services (DCF), child protective investigations, child protection teams, and penalties for failing to report child abuse.

In addition, this bill amends provisions pertaining to private providers that contract with the department to provide protective services. This bill creates state and local Child Abuse Death Review Committees. This bill modifies and adds penalties relating to the abuse of a child and requires the Department of Health to develop a plan for child protection team support in each county.

The effective date of this bill is July 1, 1999.

HB 1879 -- Public Records by Representative Murman (passed as SB 928 by Cowin)

House Committee(s) of Reference: Family Law and Children; Children and Families; Health and Human Services Appropriations

This bill retains the exemptive status from the Public Records law pursuant to s. 119.07, Florida Statutes for: all confidential or exempt information that is obtained by the State Child Abuse Death Review Committee or a local committee, or a panel or committee assembled by the state committee or local committee; and all confidential or exempt information obtained by a hospital or health care practitioner from those committees.

This bill provides for an exemption from the Public Records law pursuant to s. 119.07, Florida Statutes, for specified information in reports or records created by the death review committees or panels or committees assembled by the committees. This bill provides for an exemption from the public meetings requirements pursuant to s. 286.011, Florida Statutes, for that portion of those meetings and proceedings relating to the discussion of specific persons and incidents associated with child fatalities under review by the child abuse death committees.

The effective date of this bill is July 1, 1999.

HB 2019 -- Child Protection by The Committee on Family Law and Children and Representative Roberts (passed as CS/SB 1666 by Senator Mitchell)

House Committee(s) of Reference: Family Law and Children; Governmental Rules and Regulations; Judiciary

As a result of legislation passed in 1998, chapters 39 and 415 were merged and revised. The phrase "parent, legal custodian, and caregiver" was inserted throughout the amended chapter 39. This resulted in some inconsistency and misuse. This bill corrects those problems. In comparing the comprehensive chapter 39 created during the 1998 session to the pre-existing language in the 1997 versions of both chapters 39 and 415, it became evident that the 1997 statutes also contained numerous inconsistencies in the role, responsibilities and legal obligations of individuals other than a parent. HB 2019 corrects these problems as well.

In addition, this bill: clarifies that child protection teams have been moved from DCF to the Department of Health; clarifies that parents of a child placed into shelter care must comply with child support enforcement; provides parents of a child taken into shelter care an extra 72 hours to obtain legal representation; clarifies that the court does not have to proceed with a full adjudicatory hearing if the parent was properly noticed to appear and does not appear; and clarifies under what conditions the court may discontinue supervision by the department and discontinue regular judicial reviews.

This bill provides that the Department of Children and Family Services may place a child in a foster home which otherwise meets licensing requirements if state and local records checks do not disqualify the applicant and the department has submitted fingerprints to FDLE for forwarding to the FBI and they are awaiting the results of the federal criminal records checks.

This bill authorizes the Department of Children and Family Services to annually certify local funds for state match for eligible Title IV-E expenditures.

The effective date of this bill is July 1, 1999.

HB 2149 -- Child Support by The Committee on Family Law and Children and Representative Roberts (CS/CS/SB 808 by Diaz Balart)

House Committee(s) of Reference: Family Law and Children; Judiciary; General Government Appropriations

This bill amends sections of Chapter 61 and Chapter 409, Florida Statutes, relating to child support enforcement.

This bill provides a time frame related to the suspension of an obligor's driver's license or motor vehicle registration as a result of a delinquency in child support payments. This bill requires that the full names, dates of birth, and social security numbers of any minor children be included as a separate attachment to the pleading for dissolution of marriage and to child support orders.

This bill clarifies the definition of what constitutes a family violence indicator as it relates to information provided to the State Case Registry. It also clarifies that in public assistance cases, as in non-public assistance cases, retroactive child support obligations are determined in accordance with the child support guidelines in s. 61.30, Florida Statutes.

This bill grants the Department of Revenue the statutory authority to impose a fine for failure to comply with a subpoena for information necessary to establish, modify, or enforce a child support order.

This bill provides for the implementation of further rules and regulations relating to child support enforcement resulting from federal welfare reform, provides for procedures for the implementation of the State Case Registry and the State Disbursement Unit as they become operational. This bill provides that clerks and judges may not refuse to issue a marriage license to aliens who are undocumented. In addition, this bill provides for full participation by Miami-Dade, Seminole, & Collier Counties in the Clerk of the Court Child Support Enforcement Collection System and provides for reimbursement.

The effective date of this bill is July 1, 1999, unless otherwise provided.

CS/CS/HB 0019--Skateboarding & Inline Skating by Governmental Operations; Judiciary; Futch & Others (SB 0112 by Kurth; Kirkpatrick)

House Committees of Reference: Judiciary; Governmental Operations.

This bill expands sovereign immunity for skateboarding, inline skating ("rollerblading"),

and freestyle bicycle riding accidents which occur on public property. This bill's stated purpose is "to encourage governmental owners or lessees of property to make land available to the public" for such activities.

This bill establishes immunity for all governmental entities and public employees, but it does not extend this immunity to independent concessionaires, non-governmental entities, or government contractors. Under this bill, participants in skateboarding, rollerblading, and freestyle bicycle riding activities, assistants, and spectators who voluntarily place themselves within the zone of risk would be prevented from bringing suit.

This bill creates three exceptions to sovereign immunity: (1) where the governmental entity fails to warn of dangerous conditions of which the participant has no notice; (2) where the governmental entity commits gross negligence; and (3) where the governmental entity fails to obtain written consent by the parents of a child under the age of 17 allowing the child to participate in skateboarding, rollerblading, and freestyle bicycle riding activities.

Finally, this bill states that the fact that a governmental entity carries insurance which covers skateboarding, rollerblading, or freestyle bicycle riding incidents does not constitute a waiver of immunity.

This bill takes effect upon becoming law.

HB 0085--Official State Designations by Cosgrove (SB 1974 by Diaz-Balart)

House Committees of Reference: Judiciary; Criminal Justice Appropriations

This bill provides that the courthouse of the Third District Court of Appeal in the State of Florida be designated as the "Thomas H. Barkdull, Jr., District Courthouse" and authorizes the Third District Court of Appeal to erect suitable markers. This bill also designates the schooner Western Union as an official flagship of the State of Florida.

This bill takes effect upon becoming law.

CS/HB 0199--Trespass/School Grounds or Facility by Crime & Punishment; Waters (CS/SB 0154 by Criminal Justice; Sebesta)

House Committees of Reference: Judiciary; Crime & Punishment

This bill grants nonpublic schools the same protection against trespass that public schools now have under section 228.091, F.S.

This bill simplifies current law by removing all the categories of persons who may commit trespass on school grounds without being first told to leave the campus and replaces the categories with the broadest category from the current law, namely, persons without legitimate business. Suspended students also remain specifically subject to the trespass penalty as in current law. Similarly, the categories of persons subject to being charged with trespass on school grounds after receiving a warning were eliminated. Instead, this bill establishes that any person who enters or remains on school grounds after being warned to leave by the principal or the principal's designee commits a first degree misdemeanor.

This bill defines the term "school" to mean "the grounds or any facility of any kindergarten, elementary school, middle school, junior high school, or secondary school, whether public or nonpublic."

The effective date of this bill is July 1, 1999.

CS/HB 0361--Partnership Filings/Department of State by Judiciary; Ritter (CS/SB 1430 by Judiciary; Silver)

House Committees of Reference: Judiciary; Financial Services; Finance & Taxation; Transportation & Economic Development Appropriations

This bill amends the Florida Revised Uniform Partnership Act of 1995 to include amendments adopted by the National Conference of Commissioners on Uniform State Laws (NCCUSL) relating to limited liability partnerships (LLP).

This bill implements the general LLP regulatory regime adopted by the NCCUSL in 1996. This bill provides "full shield" protection for LLP partners from vicarious liability, effectively conferring on such partners the same "shield", protection from liability, that corporate shareholders have.

This bill provides for filing requirements and registration documents which will be managed by the Department of State. In this regard, this bill also provides technical amendments to conform the Florida Act to the uniform act.

This bill repeals the requirement that domestic and foreign limited liability partnerships carry liability insurance as a condition of registration. In addition, this bill exempts partnerships and other commercial entities from the fictitious name registration law.

The Department of State may collect a \$25 fee for the following LLP filings which are not currently required under Florida law: a statement of qualification, a statement of foreign qualification, and a limited liability partnership annual report.

This bill has not been subject to revenue estimation; however the 1998 Revenue

Estimating Conference estimated a negative fiscal impact of (\$53,932) for FY 1998-99, and (\$75,932) for FY 1999-00.

This bill takes effect upon becoming law.

**CS/HB 0423--Trial Testimony/Sexual Offenses
by Crime & Punishment; Argenziano & Others** (Passed as CS/SB
0198 by Judiciary; Klein)

House Committees of Reference: Judiciary; Crime & Punishment

This bill requires a trial judge to close the courtroom during the testimony of a victim of a sex offense in any criminal or civil trial at the request of the victim. The court may not close the courtroom to members of the media, parties to the case, their attorneys, secretaries, officers of the court, and families or guardians of the victim.

The effective date of this bill is July 1, 1999.

**HB 0515--UCC/Letters of Credit
by C. Green** (Passed as CS/CS/SB 0740 by Judiciary; Commerce and
Economic Opportunities; Campbell)

House Committees of Reference: Judiciary; Financial Services

This bill revises Article 5 of the Uniform Commercial Code which concerns letters of credit. The original Article 5 was drafted in the 1950's and was enacted into Florida law in 1965 as Chapter 675, F.S.. That chapter has remained in substantially the same form since its original enactment. The revision of Article 5 was completed by the National Conference of Commissioners on Uniform State Laws in 1995 and has been adopted by a number of states. These revisions were adopted by Florida and include:

- authorizing the use of electronic technology;
- expressly permitting deferred payment letters of credit;
- expressly permitting two-party letters of credit;
- providing rules for unstated expiration dates for letters of credit;
- providing for perpetual letters of credit;
- providing rules for nondocumentary conditions;
- clarifying and establishing rules for successors by operation of law;
- conforming the code to existing practice for assignment of the proceeds; and
- clarifying the rules where court decisions have been in conflict.

Letters of credit are used to obtain payment as a backup to other kinds of credit extension and are important in international trade. The revisions explicitly recognize

standards of practice, including the Uniform Customs and Practices for Documentary Credits (UCP) which governs many of the particulars of international letters of credit. This bill inserts into Chapter 95, F.S., Limitations on Actions; Adverse Possession, the one year statute of limitations provided for Letters of Credit within this bill. This bill also and eliminates a reference to Bulk Transfers which was no longer necessary.

The effective date of this bill is July 1, 1999.

HB 0775--Civil Actions by Judiciary; Byrd & Others (Conference Report)

House Committees of Reference: Judiciary

The civil litigation reform bill makes a number of major changes in the state's litigation system. This bill incorporates comprehensive reforms aimed at promoting settlement and judicial efficiency and reducing the time, cost, and uncertainty of the litigation process. The imposes a 12-year statute of repose on most products. Longer periods apply to longer life products such as commercial aircraft. This bill establishes new guidelines relating to negligent hiring, job reference information, and premises liability, aimed at reducing litigation by clarifying the duties of potential employers and premises owners.

This bill also limits punitive damages. At trial, a plaintiff must establish by clear and convincing evidence its entitlement to an award of punitive damages. This bill also sets a cap of 3 times punitive damages or \$500,000 whichever is greater, with a higher cap for harms done knowingly and motivated by unreasonable financial gain. There will be no cap for intentional acts. Abuses of the elderly, children and disabled are not covered by the caps.

Joint and several liability is eliminated for all non-economic damages. This bill further provides that joint and several liability shall not apply when the defendant's fault is less than 10% or less than the victim's fault. However, in those cases where the defendant's fault is greater than 10% but not less than the victim's fault, this bill provides a sliding scale of caps on joint and several liability for economic damages. The caps increase as fault increases.

Vicarious liability for automobile owners through the dangerous instrumentality doctrine is limited for short term lessors of motor vehicles and of owners who lend vehicles to permissive users.

This bill modifies civil enforcement guidelines regarding nursing homes and related facilities. The changes are designed to promote mediation and quicker settlements.

The changes are primarily prospective. The effective date of this bill is October 1,

except that the products liability statute of repose and the automobile vicarious liability provisions take effect on July 1. Products liability cases which would be barred by this bill, however, will be eligible for filing until 2003.

HB 1009--Contracts with Federal Government by Wiles (Passed as SB 2568 by King)

House Committees of Reference: Judiciary; Governmental Operations; General Appropriations

This bill permits the state and its political subdivisions authorized to enter into cooperative agreements or contracts with the federal government in constructing water resource development projects to agree in the written documents to indemnify and hold harmless the United States from damages due to the construction, operation, maintenance, repair, replacement, and rehabilitation of the projects, except for damages due to the fault or negligence of the United States or its contractors. This bill does not obligate the Legislature to provide future appropriations and does not abrogate the provisions of s. 45.062, F.S., relating to settlements when an agency of the executive branch is a party to the settlement.

This bill takes effect upon becoming law.

HB 1485--Public Records/Minors/Pregnancy by Murman (Passed as CS/SB 1596 by Health, Aging and Long-Term Care; Bronson)

House Committees of Reference: Judiciary; Family Law & Children; Governmental Operations; Governmental Rules & Regulations

This bill provides an exemption from public records requirements for information which might identify a pregnant minor who petitions the court for a waiver of parental notice prior to obtaining an abortion. This bill makes confidential and exempt from the requirements of s. 119.07(1), F.S., and Section 24 (a) of Article I of the State Constitution any information in documents relating to the petition which could be used to identify the minor. This bill provides statements of public necessity.

This bill is tied to SB 1598, which requires parental notification of abortion in certain cases, and takes effect on the same date as that bill takes effect.

CS/HB 1513--Limited Liability Companies by Judiciary; Sanderson (CS/SB 1696 by Judiciary; Klein)

House Committees of Reference: Judiciary; Financial Services; Transportation &

Economic Development Appropriations

This bill revises Chapter 608 of the Florida Statutes, relating to limited liability companies (LLCs). These largely technical incorporate modern language adapted from the National Conference of Commissioners on Uniform State Laws' Uniform Limited Liability Company Act (ULLCA) and the laws of certain model states such as Delaware. The changes contained in this bill bring Florida in line with the other 49 states and open Florida's economy to increased activity by LLCs. This bill is the joint product of the Department of State, the Division of Corporations and the Business Law Section of the Florida Bar.

The effective date of this bill is October 1, 1999.

CS/HB 1523--Information Technology Resources

by Judiciary; Hart (Passed as CS/CS/CS/SB 0080 by Fiscal Policy; Governmental Oversight and Productivity; Commerce and Economic Opportunities; Grant & Others

House Committees of Reference: Judiciary; Financial Services; Community Affairs

This bill creates the Commerce Protection Act, which prescribes the exclusive tort remedies against businesses and governmental agencies for damages caused by the failure of information technology resources to function properly with respect to date data as the result of the "Y2K" computer bug. Contract rights are not affected.

Specifically, this bill:

- Excludes from compensatory damages those that could have been avoided through the exercise of reasonable care or based upon disclosures.
- Allows businesses and governmental agencies to avoid liability by assessing compliance and holding a reasonable good-faith belief that they are compliant.
- Requires mediation pursuant to s. 44.102, F.S., after filing suit.
- Prohibits class action suits under specified circumstances.
- Establishes a two-year statute of limitations on actions for damages.
- Provides directors and officers of corporations with absolute and complete immunity from personal liability under specified circumstances.
- Exempts the exchange of information concerning year-2000 compliance from anti-trust provisions.
- Provides for alternative dispute resolution procedures.

The act is effective upon becoming law.

CS/HB 1779--Victim Assistance & Compensation

Civil Justice Council

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by Judiciary; Pruitt & Others (CS/SB 1484 by Criminal Justice; Saunders; Dyer)

House Committees of Reference: Judiciary; Crime & Punishment; Criminal Justice Appropriations

This bill expands the Florida Crimes Compensation Act to permit victim compensation awards based on boating and flying under the influence offenses. This bill also gives standing to a victim of a crime or a state attorney to assert those crime victim's rights that are provided for under the Florida Constitution.

This bill expands the Act, which restricts adult award eligibility to persons who have been physically injured, to also permit eligibility for adults who, as a result of a forcible felony, suffer mental injury.

This bill increases existing statutory limitations on award eligibility, by adding that persons who were incarcerated at the time of the crime, who have been habitualized, or who have been adjudicated guilty of a forcible felony are not eligible for an award, unless the Crime Victims' Services Office finds that mitigating or special circumstances exist which would render such disqualification unjust.

This bill increases the current \$15,000 maximum award amount for all costs and losses to \$25,000, and provides that in the event a "catastrophic injury" is suffered the maximum award is \$50,000. This bill also increases the current \$500 emergency award maximum to \$1,000, and the current \$150 maximum for forensic physical exam costs to \$250.

This bill exempts loss of support benefits received from collateral sources from the Act's current requirement that all awards be reduced by any collateral benefit.

This bill creates a new section which provides that domestic violence crime victims may receive relocation assistance awards. Up to \$1,500 may be awarded for any one claim, and up to \$3,000 may be awarded during the victim's lifetime.

This bill takes effect January 1, 2000, except for section 1, relating to standing, which takes effect upon becoming law.

CS/HB 1837--Child Passenger Restraints
by Judiciary; Bilirakis & Others (CS/SB 0334 by Judiciary; Sebesta)

House Committees of Reference: Judiciary; Transportation

This bill provides for "primary action" enforcement of the child seat restraint law. This

bill provides for an additional \$50 fine for violations of the seat belt law, which fine shall be deposited into the Brain and Spinal Cord Injury Rehabilitation Trust Fund.

This bill also requires that all public school buses purchased after December 31, 2000, and used to transport students in grades pre-K through 12 be equipped with safety belts. A school bus purchased prior to December 31, 2000, is not required to be equipped with safety belts.

This bill requires that seat belts be used by all school bus passengers, but specifies that a school district, school bus operator under contract with a school district, or an agent or employee of a school district or operator is not liable in an action for personal injury where the injury occurred as a result of not wearing a safety belt. Similarly, school districts and bus operators are not liable in an action for personal injury by a school bus passenger for an injury caused solely by another passenger's use of a safety belt in a dangerous or unsafe manner. Elementary schools are to receive first priority in the allocation of school buses equipped with seat belts.

This bill has an effective date of July 1, 1999.

HB 1877--Judicial Appointments **by Warner** (CS/SB 1334 by Fiscal Policy; Grant)

House Committees of Reference: Judiciary; Criminal Justice Appropriations

This bill creates 25 circuit judgeships, 6 county judgeships, and 1 district court of appeal judgeship certified by the Florida Supreme Court as well as support staff. The new positions are phased in with 15 positions expected to be filled on or after October 1, 1999, and 17 positions expected to be filled on or after January 1, 2000.

This bill has phased effective dates of August 1, and October 1, 1999.

CS/CS/HB 291--Homestead Exemption/65 Years & Older **by The Committees on General Government Appropriations, Real Property & Probate, Representative Villalobos, and Others** (CS/SB 184 by Fiscal Resource and Senator Diaz-Balart, CS/SB 384 by Fiscal Resource and Senator Gutman)

House Committee(s) of Reference: Real Property & Probate, Community Affairs, Finance & Taxation, General Government Appropriations

This bill, pursuant to express authority provided in Section 6(f), Article VII, of the Florida Constitution, allows both counties and municipalities, through adoption of an

ordinance, to each grant an additional homestead tax exemption of up to \$25,000 to resident homeowners who are at least 65 years of age and whose household income does not exceed \$20,000.

This bill sets forth the requirements for an ordinance granting such an additional homestead exemption and requires the Department of Revenue to adopt rules with regard to the supporting documentation necessary to verify income.

This bill has an indeterminate negative fiscal impact on those local governments that choose to grant the additional exemption but will provide some tax relief for those elderly persons affected.

The effective date of this bill is July 1, 1999.

**CS/CS/HB 301--Probate/Elective Share
by The Committees on Judiciary, Real Property & Probate,
Representative Goodlette, and Others (CS/SB 298 by Judiciary and
Senator Geller)**

House Committee(s) of Reference: Real Property & Probate, Judiciary

This bill amends various provisions in Ch. 732, F.S., relating to the probate code, to provide that a surviving spouse has the right to claim an elective share of the "elective estate" instead of the estate "subject to administration" within the earlier of 6 months from the first publication of notice of administration or within 2 years from the date of the decedent's death. This bill, among other things, describes the property entering into the elective estate and provides for valuation of same; states that the elective share is an amount equal to 30 percent of the elective estate; sets forth the sources from which the elective share is payable; addresses the liability of direct recipients and beneficiaries; and establishes a process for election.

"Elective estate" is defined to include both probatable assets and nonprobatable assets including any revocable intervivos trusts. This prevents the decedent from disinherit the surviving spouse by means of a revocable intervivos trust, absent a written agreement between the parties that the surviving spouse will waive his or her elective share.

The effective date of this bill is October 1, 1999.

**CS/HB 345--Educational Property Tax Exemption
by The Committee on Real Property & Probate and Representative
Brummer (CS/SB 974 by Education and Senator Childers)**

House Committee(s) of Reference: Real Property & Probate, Finance & Taxation, Education Appropriations

This bill amends s. 196.198, F.S., to provide that if title to land used exclusively for educational purposes is placed into an irrevocable inter vivos trust, and if the trust grantor owns 100 percent of the entity which owns the educational institution using the land, then for purposes of the educational property tax exemption, the institution is deemed to own the land, not the trust.

This bill takes effect upon becoming law.

**CS/HB 383--Residential Property Associations
by The Committee on Business Regulation & Consumer Affairs,
Representative Goodlette, and Others (CS/SB 814 by Regulated
Industries, Senator Saunders, and Others)**

House Committee(s) of Reference: Real Property & Probate, Business Regulation & Consumer Affairs, General Government Appropriations

This bill provides that certain grantors or beneficiaries of an irrevocable inter vivos trust are eligible to serve as directors of a condominium association, cooperative association, homeowners' association, or mobile homeowners' association, as applicable. This bill also amends the Cooperative Act to echo the provisions of the Condominium Act and provide the same rights to cooperative owners which are provided to condominium owners.

This bill defines "special assessment", "voting certificate", and "voting interest"; adds that all provisions in the cooperative document are enforceable equitable servitudes which run with the land and are effective upon termination; provides an exception to the bar against commingling funds and states that funds may be combined for investment purposes; grants authority to the board of administration to grant, modify, move or vacate an easement under certain circumstances; and provides a method for amending cooperative documents if the cooperative documents fail to so provide.

Finally, in the event that no homeowners' association has otherwise been created, this bill authorizes the creation of a mobile home subdivision homeowners' association and sets forth certain requirements regarding such an association.

This bill takes effect upon becoming law.

HB 737--Property/Tax Certificates

by Representative Greene and Others (CS/SB 986 by Fiscal Resource and Senator Rossin became Chapter 99-141, Laws of Florida)

House Committee(s) of Reference: Real Property & Probate, Finance & Taxation

Chapter 99-141, Laws of Florida, amends s. 197.432, F.S., and limits the blanket prohibition regarding no contact by a tax certificate holder with a property owner to two years from April 1 of the year of issuance of the tax certificate. Accordingly, only contact during those two years could result in the tax certificate holder being barred from bidding at a tax certificate sale, as well as possibly being sued under the Florida Deceptive and Unfair Trade Practices Act. Section 197.432, F.S., is also amended to correct reference errors within existing law, e.g., "holder of the tax certificate" to "property owner".

Finally, Chapter 99-141, Laws of Florida, clarifies that the 7-year period after which a tax certificate is null and void if no legal action has been taken begins on the date of the first day of the tax certificate sale as advertised.

The effective date of this bill is July 1, 1999.

CS/HB 1063--Condos & Residential Assoc./Taxes

by The Committee on Real Property & Probate and Representative Bronson (CS/SB 1168 by Regulated Industries and Senator Bronson)

House Committee(s) of Reference: Real Property & Probate, Community Affairs, Finance & Taxation

This bill amends s. 718.105, F.S., to require a certificate or receipted bill to be filed with the clerk of the circuit court when a declaration of condominium is recorded showing that all property taxes have been paid in full as of the date of recordation. Once a declaration of condominium is recorded, ad valorem taxes, benefit taxes, and special assessments by taxing authorities are assessed against the condominium units, not the condominium property as a whole. Therefore, if a developer fails to pay all property taxes prior to recordation of the declaration, the tax liability shifts to the unit owners, even if the unit owners did not have knowledge of the tax liability when the units were purchased. The requirement to file such a certificate or receipted bill should enable local governments to collect outstanding property taxes from condominium developers and provide potential buyers with notice that property taxes on the land have been paid.

This bill also amends s. 468.4315, F.S., to specifically authorize the Regulatory Council of Community Association Managers ("Council") to adopt rules related to providers of continuing education. Current law requires licensure of any person who manages a community association in Florida. A license may be not renewed unless the licensee complies with continuing education requirements specified in rules adopted by the Council. The Council is currently authorized to approve, by rule, the number of continuing education hours required, criteria, and course content; however, no authority exists to adopt rules related to the providers of continuing education.

The effective date of this bill is July 1, 1999.

CS/HB 1659--Trusts and Trust Powers
by The Committee on Real Property & Probate and Representative
Bilirakis and others (CS/SB 2068 by Banking & Insurance and
Senator Grant)

House Committee(s) of Reference: Real Property & Probate, Judiciary

This bill authorizes the courts, under certain circumstances, to award costs and attorney's fees in trust proceedings and provides statutory limitations on the liability of successor trustees for the acts or omissions of prior trustees.

This bill allows costs and attorney's fees in trust proceedings to be paid out of the trust if a court determines that the attorney rendered services to the trust. Attorney's fees may be awarded only for services rendered by an attorney on or after July 1, 1999, the effective date of this bill. In addition, an attorney must provide notice to the trustee of the attorney's retention by an interested person and the attorney's entitlement to fees.

Specifically, if an attorney "has rendered services to a trust," the attorney may apply to the court for an order awarding attorney's fees, and after notice and service upon the trustee and all beneficiaries entitled to an accounting from the trustee, the court must enter an order on the attorney's application. If the court grants the attorney's application for fees, the court may direct the attorney's fees to be paid from a particular part of the trust.

This bill also provides statutory limitations on the liability of successor trustees and specifies the circumstances under which a successor trustee does not have a duty to institute a legal action against a prior trustee, or to file a claim against a prior trustee's estate for the prior trustee's acts or omissions.

The effective date of this bill is July 1, 1999.

HB 33 - Relief/Warren Weathington/City of Tallahassee
By Rep. Sembler (Passed as SB 40 by Sen. Campbell)

House Committee(s) of Reference: Claims; Health & Human Services Appropriations

This is a local, settled claim for \$750,000 to compensate Warren Weathington for injuries suffered as a result of the negligence of employees of the City of Tallahassee's tennis training camp.

The award is to be paid from funds of the City of Tallahassee not otherwise appropriated.

This bill takes effect upon becoming a law.

HB 283 - Relief/Patricia Baker/DOT
By Rep. Fiorintino (Passed as SB 20 by Sen. Grant)

House Committee(s) of Reference: Claims; Transportation & Economic Development Appropriations

This is an excess judgment claim for a total of \$443,223,66 to be paid to Patricia Baker as relief for injuries sustained as a result of her assault and rape at a Welcome Station in Jennings, Florida.

The Executive Office of the Governor is directed to transfer existing spending authority from unappropriated trust fund balances in DOT to pay the award.

This bill takes effect upon becoming a law.

HB 469 - Relief/Joseph Bellamy Farver/DCF
By Rep. Sembler (Passed as SB 4 by Sen. Forman)

House Committee(s) of Reference: Claims; General Appropriations

This is an excess judgment claim for \$4.5 million for the relief of Joseph Bellamy Farver. The award is appropriated out of non-recurring general revenue.

The Department, after being put on notice, failed to properly intervene to protect the then 6-month old claimant from his own mother, who inflicted a catastrophic, violent, shaken-baby injury on Joseph.

The effective date of this bill is July 1, 1999.

HB 529 - Relief/Robert Rosado/Palm Beach County **By Rep. Frankel (Passed as SB 26 by Sen. Rossin)**

House Committee(s) of Reference: Claims

This is a local, settled claim for \$111,560 against Palm Beach County to compensate Robert Rosado for injuries sustained in a motor vehicle accident involving Mr. Rosado's tractor trailer truck and a county fire rescue truck.

The award is to be paid from funds of Palm Beach County not otherwise appropriated.

This bill took effect on April 5, 1999.

HB 635 - Relief/Trey Alls/DOT **By Rep. Hill (Passed as SB 14 by Sen. Holzendorf)**

House Committee(s) of Reference: Claims; Transportation & Economic Development Appropriations

This is an excess judgment claim for \$1,775,000 as a result of a settlement between the parties, to compensate Trey Anthony Alls, then 18 months old, who sustained permanent brain injury as a result of the negligence of DOT in maintaining the metal grating on the Main Street Bridge in Jacksonville.

This bill provides that the award go into a special needs trust for the benefit of Trey Alls. The balance, after his death, would revert to the DOT.

The funds are appropriated out of funds not otherwise appropriated to the credit of DOT.

This bill takes effect upon becoming law.

HB 701 - Relief/Paul Gilfoyle/City of Clearwater **By the Committee on Claims and Rep. Morroni** (Passed as SB 48 by Sen. Sullivan)

House Committee(s) of Reference: Claims (PCB)

This is a local, settled claim for \$225,000 to compensate Paul Gilfoyle for injuries suffered in a motor vehicle accident involving the claimant's vehicle and a City of Clearwater police car.

The award is to be paid from funds of the City of Clearwater not otherwise allocated.

This bill took effect on April 5, 1999.

HB 939 - Relief/Ana and Juan Marquez/Metro-Dade Police
By the Committee on Claims and Rep. Cantens
(Passed as SB 6 by Sen. Forman)

House Committee(s) of Reference: Claims (PCB)

This is a local, settled claim for \$375,000 to compensate the Marquez's for damages stemming from a collision between a county police vehicle and a vehicle driven by Mrs. Marquez.

The award is paid from Metro-Dade County funds not otherwise appropriated.

This bill took effect on April 5, 1999.

HB 941 - Relief/Martha Sosa/Metro-Dade County
By the Committee on Claims and Rep. Cantens
(Passed as SB 46 by Sen. Jones)

House Committee(s) of Reference: Claims (PCB)

This is a local, settled claim for \$900,000 against Metro-Dade county to compensate Martha Sosa for injuries sustained when a county-operated bus drove over her arm.

The award is to be paid from county funds not otherwise appropriated.

This bill took effect on April 6, 1999.

HB 977 - Relief/Children of Elionne Joseph/Metro-Dade County
By the Committee on Claims and Rep. Cantens
(Passed as SB 22 by Sen. Silver)

House Committee(s) of Reference: Claims (PCB)

This is a local, settled claim for \$1.3 million to compensate the three surviving children of Ms. Elionne Joseph, who was killed when her vehicle was struck by a vehicle occupied by several burglary suspects who were being negligently pursued by the police.

The award is to be paid to the children's guardianship from funds of Metro-Dade County not otherwise encumbered.

This bill took effect on April 5, 1999.

HB 1107 - Relief/Jose Cruz/West Volusia Hospital Authority
By the Committee on Claims and Rep. Ritter
(Passed as SB 34 by Sen. Dyer)

House Committee(s) of Reference: Claims (PCB)

This is a local, settled claim for \$1.8 million to compensate Jose Alberto Cruz, Jr. and his parents, for severe and permanent injuries sustained at his birth, in an incident of hospital malpractice.

The award is to be paid from funds in the West Volusia Hospital Special Taxing District reserve account.

This bill took effect on April 5, 1999.

HB 1109 - Relief/Charlie Brown/City of Delray Beach
By the Committee on Claims and Rep. Cantens
(Passed as SB 24 by Sen. Campbell)

House Committee(s) of Reference: Claims (PCB)

This is a local, settled claim for \$80,000 to compensate the estate of Charlie Brown, Jr. for damages sustained as a result of the city's negligence in misplacing evidence of a hit and run accident that critically injured Mr. Brown.

The award is to be paid by the City of Delray Beach.

This act became effective April 5, 1999.

HB 1111 - Relief/Eubanks - Black family/Palm Beach County
By the Committee on Claims and Rep. Ritter
(Passed as SB 32 by Sen. Myers)

House Committee(s) of Reference: Claims (PCB)

This is a local, settled claim for \$350,000 to compensate members of the Eubanks and Black families for damages sustained as a result of the county's negligence in failing to

properly maintain a road, thereby causing a motor vehicle accident and subsequent drowning deaths of a grandmother and her two young grandchildren.

The award is to be paid from funds of Palm Beach County not otherwise appropriated.

This bill took effect on April 5, 1999.

**HOUSE OF REPRESENTATIVES
CONSUMER AFFAIRS COUNCIL
1999 SUMMARY OF PASSED LEGISLATION**



COMMITTEE ON BUSINESS REGULATION & CONSUMER AFFAIRS

*Representative Mark Ogles, Chair
Representative Jeff Miller, Vice Chair*

COMMITTEE ON FINANCIAL SERVICES

*Representative Larry Crow, Chair
Representative Carole Green, Vice Chair*

COMMITTEE ON INSURANCE

*REPRESENTATIVE STAN BAINTE, CHAIR
REPRESENTATIVE LESLIE WATERS, VICE CHAIR*

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*REPRESENTATIVE JOHN MORRONI, CHAIR
REPRESENTATIVE WILLIAM ANDREWS, VICE CHAIR*

COMMITTEE ON UTILITIES & COMMUNICATIONS

*REPRESENTATIVE LUIS E. ROJAS, CHAIR
REPRESENTATIVE JOSEPHUS EGGELLETON, VICE CHAIR*

**REPRESENTATIVE DAVID I. BITNER, COUNCIL CHAIR
MAY 1999**

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BUSINESS REGULATION & CONSUMER AFFAIRS

1999 End-of-Session Summary

Bills that Passed Both Houses

HB 415, 2ND ENG.--Optical Discs/Markings **by Morroni (CS/SB 1308 by Criminal Justice; Webster)**

House Committee(s) of Reference: Business Regulation & Consumer Affairs; Crime & Punishment; Criminal Justice Appropriations

This bill regulates for the first time in Florida the manufacture of, and trade in, optical discs (Compact Discs, DVD's, CD-ROM's) for commercial purposes and creates penalties for violations of the act. This will reduce the ability of persons to counterfeit, "pirate" or "boot-leg" music, software, movies and the like. The bill requires manufacturers to place identifying marks on optical discs they produce, subject to fines.

The bill creates a first degree misdemeanor punishable for up to a year in jail or by a fine up to \$10,000, or both, for activities related to non-compliant optical discs. The bill also creates a first degree misdemeanor punishable by up to a year in jail or a \$50,000 fine, or both, for tampering with a compliant optical disc.

The bill has indeterminate fiscal effects on law enforcement and prosecution.

The effective date of the bill is October 1, 1999.

CS/HB 417, 1ST ENG.--Real Estate Brokers & Salespersons **by Real Property & Probate; J. Miller; Constantine (CS/SB 1072 by Regulated Industries; Sullivan)**

House Committee(s) of Reference: Business Regulation & Consumer Affairs; Real Property & Probate

CS/HB 417 provides for revisions of the statutes related to real estate brokers and salespersons. Specifically, the committee substitute:

- removes the requirement that the "notice of nonrepresentation" be provided by a real estate agent or broker to a potential buyer or seller in a residential real estate transaction upon the first contact between the parties; a portion of the repealed notice language is transferred to the current disclosure notice which is required for brokers and agents;
- exempts certain securities dealers and financial institutions from the registration requirements for real estate brokers if either negotiates the purchase or sale of a

- business enterprise for a third party and the sale or purchase involves land, buildings, fixtures, or other improvements to the land;
- clarifies that the Real Estate Commission may certify a person for licensure only if the person satisfies statutory requirements for licensure;
- subjects “designated salespersons” to disciplinary action for violations of the law; and
- provides limitations on entities and persons eligible for recovery from the Real Estate Recovery Fund, as well as, parties from whom money may be recovered.

The committee substitute does not appear to have a fiscal impact on state or local governments.

The effective date of the bill is October 1, 1999.

**CS/SB 672--Deceptive Trade Practices/Print Ads
by Agriculture and Consumer Services; Holzendorf (HB 1657 by
Lynn)**

House Committee(s) of References: Business Regulation & Consumer Affairs;
Criminal Justice Appropriations

The bill provides that a person may not misrepresent the geographic location of a supplier of a service or product by listing a fictitious name or assumed business name in print advertisement. A supplier may not advertise if the advertisement falsely represents that the supplier is located within the state and includes a telephone number which when called routinely forwards or transfers the calls to a business location which is outside the state.

The bill exempts a publisher of the advertisement from liability if a fictitious name or assumed name is published without knowledge of the advertisement being false or misleading. The exemption does not apply if the publisher is the supplier committing the offense. A person violating the prohibition commits a deceptive and unfair trade practice and is subject to a civil penalty of up to \$10,000 per violation.

There is no anticipated fiscal impact on state or local governments.

The effective date of the bill is upon becoming a law.

CS/HB 681, 2ND ENG.--Construction Liens & Bonds by Real Property & Probate; Merchant (CS/CS SB 1206 by Commerce and Economic Opportunities; Judiciary; Webster)

House Committee(s) of References: Business Regulation & Consumer Affairs; Real Property & Probate

This bill makes several changes to the Construction Lien Law, the purpose of which is to: (1) provide a special civil remedy to persons who supply labor, services, or materials during the construction of a home or building in the event they are not paid, and (2) provide procedures for property owners to avoid double payment for such labor, services, or materials. Specifically, it:

- specifies that time periods for serving a Notice of Nonpayment, for bringing an action against a contractor or surety, or for recording a claim of lien are not determined by issuance of a Certificate of Occupancy or Certificate of Substantial Completion;
- clarifies that a Notice to Owner *may* substantially conform to the recommended form, but *must* contain certain stipulated information;
- specifies certain information that is required in a Notice of Commencement and requires building officials to verify that the information is consistent with the building permit application;
- creates an exemption from Notice of Commencement requirements for direct contracts of less than \$5,000 for repair or replacement of an existing heating or air conditioning unit; and,
- renders void any provision in a contract for improvement of real property that requires legal action to be brought outside this state, and requires that the legal action shall instead proceed in this state, in the county where the cause of action occurred.

The effective date of the bill is October 1, 1999.

**HB 1061, 2ND ENG.--Consumer Protection
by Business Regulation & Consumer Affairs; Ogles and others
(CS/SB 1712 by Regulated Industries; Meek and SB 2292 by
Agriculture and Consumer Services; Forman)**

House Committee(s) of References: Financial Services; General Government
Appropriations

HB 1061 amends various consumer protection laws relating to charitable solicitations, home solicitation sales, telemarketing, pawnbrokers, sale of business opportunities and motor vehicle repair shops that are implemented by the Department of Agriculture and Consumer Services (DACS). The thrust of these statutes is to require information disclosure and remedies for violations. The bill is designed to clarify and enhance several of these provisions. It focuses on disclosing criminal histories occurring within the last 10 years and background information for persons operating under their respective statutes.

Additionally, the bill clarifies the definition of who is an assistive technology device dealer and establishes a registration program for dealers to be administered by the DACS. Registration qualifications are specified and enforcement authority is provided for the DACS. Investigative authority of the DACS is specifically provided to address consumer disputes with dealers.

Applicants for an initial pawnbroker license would incur the costs of the additional requirement of federal processing of fingerprints for a national criminal history check with an estimated fiscal impact of \$8,750 annually. The bill requires a new registration fee of \$300 from the assistive technology device dealer and a \$2 fee to be collected from the consumer at the time of the sale or lease of the device. An appropriation of \$450,000 is provided to the DACS for 6 new positions to administer the assistive technology device provisions.

The effective date of the bill is upon becoming a law.

**SB 1566, CS/CS/1ST ENG by Fiscal Policy; Commerce and
Economic Opportunities; Kirkpatrick;** (includes HB 1479 by Brown;
HB 1977 and HB 2017 by Business Regulation & Consumer Affairs,
Ogles and others, and CS/HB 2075 by Business Regulation &
Consumer Affairs and Bitner)

House Committee(s) of Reference: See below

Sections 133 - 142 and 144 - 150 contain the provisions of **HB 2017** (with four amendments adopted by the Committee on Governmental Rules and Regulation

amendments) by the Committee on Business Regulation and Consumer Affairs and Representative Ogles. It died in the Committee on Governmental Operations.

House Committee(s) of Reference: Governmental Rules and Regulations;
Governmental Operations; General Government Appropriations

These provisions include:

- establishing legislative criteria for evaluating new professional regulation;
- authorizing the Department of Business and Professional Regulation (DBPR) to develop rules when there is no board;
- authorizing distance learning for continuing education courses;
- authorizing proration of continuing education requirements for anyone initially licensed in the second year of a biennial licensure cycle;
- requiring fingerprint cards and criminal history checks for athlete agents and property appraisers;
- prohibiting license renewal until all fees and fines are paid;
- authorizing various medical boards under the Department of Health to require by rule continuing education relating to risk management or cost containment;
- requiring registration and education for body wrappers and payment of a new \$25 registration fee;
- specifying that only cosmetologists may perform skin care services under chapter 477; and
- prohibiting body wrappers and skin care specialists from advertising as massage therapists.

Note: CS/CS/SB 1566 inadvertently omitted the exemption in HB 2017 of body wrappers from continuing education requirements.

Section 143 contains the revised provisions of **HB 1479**, relating to the clearance of minor violations from the record of a DBPR licensed professional, by Representative Brown. It died in House Messages.

House Committee(s) of Reference: Business Regulation and Consumer Affairs;
Governmental Operations; Governmental Rules and Regulations

These provisions provide that a licensee under the DBPR may petition the DBPR to remove minor violations from the person's or business's disciplinary record after two years and providing the licensee has not re-offended. It also allows the DBPR to classify all disciplinary violations according to their severity, and to establish a schedule for removing such violations after a set period of time.

Sections 151 -156 contain provisions relating to the Department of Legal Affairs that were included by amendment and were not contained in a filed bill.

House Committee(s) of Reference: N/A

These provisions delete requirements that the Department of Legal Affairs provide counsel to the various boards under the Department of Business and Professional Regulation and the Department of Health. Instead, the departments are authorized to use their own attorneys, hire private attorneys, or contract with the Department of Legal Affairs.

Sections 157 - 163 contain the provisions of **HB 1977**, relating to continuing education, by the Committee on Business Regulation and Consumer Affairs and Representative Ogles. It died in the Senate Committee on Regulated Industries.

House Committee(s) of Reference: Governmental Rules and Regulations; General Government Appropriations

These provisions were adopted to improve the process for assuring compliance with continuing education requirements. They require that, by the year 2002, the DBPR must monitor 100% of professional licensees for compliance with continuing education requirements or privatize that activity. The provisions authorize administrative fines and provide that a license will not be renewed until all fines are paid and all conditions of a final order are met.

Section 164 contains the provisions of **CS/HB 2075** relating to insurance/CPA by the Committee on Business Regulation and Consumer Affairs and Representative Bitner. It died in the Senate Committee on Banking and Insurance.

House Committee(s) of Reference: Business Regulation and Consumer Affairs

These provisions authorize certified public accountants (CPA) to provide advisory services relating to insurance while acting within their scope of accounting practice. They limit the CPA's activities to advising clients as to the need for obtaining insurance, the amount of insurance, and the type of insurance needed. A CPA is prohibited from receiving any form of insurance commission or fee for these services.

SB 1830, 1ST ENG.--Filing with the Dept. of State by Scott (HB 1075, 1ST ENG. by Flanagan)

House Committee(s) of References: Business Regulation & Consumer Affairs; Business Development & International Trade; Finance & Taxation; Transportation & Economic Development Appropriations

This bill authorizes the Department of State to create a uniform business report. It will be used as a substitute for annual reports and renewals required by certain statutes and can be compiled into the master business index and directory of business activity. This will facilitate the efficient exchange of information. Corporations may be permitted to file required reports and renewals electronically (i.e. via the Internet).

The Department of State is given the authority to prescribe the use of the uniform business report, and to consolidate and establish filing and renewal dates. The bill removes statutory barriers to the use of technology (i.e. the Internet) and streamlines current practices of the Department of State.

Certain copying fee provisions that are confusing to the public are repealed. Also, certain search fees for which there is no longer service provided are repealed.

The bill has an indeterminate fiscal impact reducing both public and private costs.

The effective date of the bill is upon becoming law.

CS/SB 2268, 1ST ENG. by Regulated Industries; Clary (includes HB 1975 and HB 2015 by Business Regulation and Consumer Affairs; Ogles & others, and HB 1907 by Waters)

House Committee(s) of References: Community Affairs; General Government Appropriations; and, Community Affairs; Governmental Rules & Regulations; General Government Appropriations; and, Insurance; General Government Appropriations, respectively

This bill relates to the construction industry. It is the Senate companion to HB 2015, HB 1907, and HB 1975, combining the provisions from each bill. Specific provisions include:

- Establishing a grand fathering path for local contractors to become licensed statewide;

- Providing the Construction Industry Licensure Board the authority to establish the job scopes of local licenses which it registers, in order to insure uniformity; and
- Mandating a study to determine the fiscal impact on local jurisdictions, should statewide licensure be established as the sole licensure option. This provision takes effect upon the bill becoming law.
- Providing that licenses and permits for servicing fire extinguishers and fire suppression equipment issued by the State Fire Marshal will be valid for a two-year period, rather than a single calendar year. The fees are adjusted so that this higher biennial fee is a lower amount than is presently paid in the course of obtaining two annual licenses or permits (a \$150 *annual* licensure fee, becomes a \$250 *biennial* licensure fee, etc).

It also includes primarily clarifying provisions relating to building inspectors and administrators, asbestos abatement contractors, and electrical and alarm system contractors.

The effective date of the bill is October 1, 1999, except as otherwise provided.

FINANCIAL SERVICES COMMITTEE

1999 End-of-Session Summary

Bills that Passed Both Houses

HB 27--Intangible Personal Property Tax by Starks as Section 5 of CS/SB 318, 2nd Eng.--General Bill by Fiscal Resource and Lee (HB 1943 by Finance & Taxation; Albright and others)

Senate Committee(s) of Reference: Fiscal Resource

Section 5 of CS/SB 318 encompasses both accounts receivable intangible tax exemptions and personal property intangible tax exemptions for natural persons. The increase from one-third to two-thirds in the accounts receivable exemption is the provision of HB 27 which passed the Financial Services Committee.

The Revenue Estimating Conference estimated that *eliminating accounts receivables* from the intangible tax (Section 5 of CS/SB 318) would negatively impact the General Revenue Fund by (\$40.1 m) for each FY in perpetuity.

The effective date is January 1, 2000.

CS/HB 133, 2nd Eng.--Corporations/Shareholders Voting by Financial Services; Goodlette & Others (SB 826 by Scott)

House Committee(s) of Reference: Financial Services; Business Regulation & Consumer Affairs

Shareholder Proxy Voting

The Committee Substitute for HB 133 modernizes authorized methods for corporate proxy voting. Options for executing a valid corporate shareholder proxy form are expanded from the current law requiring either the shareholder's personal signature or the shareholder's attorney-in-fact's signature on a proxy form, to include either: (1) the signature of a director, employee or other authorized agent; or, (2) the shareholder's signature affixed to the appointment form by any reasonable means, including a facsimile signature, by an authorized agent of the shareholder.

In addition, the means by which a shareholder may appoint an individual, a proxy solicitation firm, a support service, a registrar, or other similar agent to act as proxy for the shareholder is expanded from the transmission of a telegram or cablegram, to include any other electronic transmission, provided the transmission is submitted with information that verifies that the transmission was authorized by the shareholder.

Corporate representatives who verify the authenticity of the transmission are required to specify the information upon which they relied for that determination.

Holding Company Merger Without Shareholder Action

This bill clarifies current law which permits a publicly-held Florida corporation to re-organize itself as a holding company through a merger with a wholly-owned subsidiary without shareholder approval. The bill provides that such a merger may be effected providing all other statutory conditions are met and that the valuation of shares that are outstanding (shares issued by the corporation and purchased by consumers) immediately prior to the effective date of the merger remains the same.

The bill has no discernable fiscal impact.

The effective date of this bill is upon becoming a law.

CS/CS/SB 150--State Financial Matters by Banking and Insurance; Governmental Oversight; Horne and Others (CS/CS/HB 77 by Financial Services; Governmental Operations; and Flanagan)

Senate Committee(s) of Reference: Banking and Insurance; Governmental Oversight

The bill revises several sections of the statutes relating to the Department of Banking and Finance's (DBF, or department) accounting and auditing responsibilities and the department's structure. Specifically, the bill:

- augments the Comptroller's subpoena power to a level at par with that of other divisions of the DBF;
- requires state employees who become eligible to receive retirement benefits after this law becomes effective to receive such benefits via direct deposit;
- removes statutory provisions creating "divisions," within the DBF, and establishes the Office of Financial Investigations, along with repealer language effective January, 2003;
- specifies that the two year statute of limitations period for filing a wage or other benefit claim starts running from the date the payment was made;
- permits agency heads to delegate authority to approve employee travel expenses and per diem expenses;
- requires the DBF to print only the telephone number of the Comptroller's vendor ombudsman on purchase orders. In addition, state employees no longer must sign an annual statement that they were provided a copy of statutes and rules;
- increases the inventory reporting threshold of operating capital outlay (OCO) for most tangible personal property from \$500 to \$1,000, and increases the hardbound book threshold from \$100 to \$250;
- removes the requirement that the Comptroller "publish" financial statements by December 31, but requires the Comptroller to furnish them to the Auditor

- General by that date. The bill requires the Comptroller to publish the Comprehensive Annual Financial Report (CAFR) by February 28, annually; renames the State Automated Management Accounting Subsystem the Florida Accounting Information Resource Subsystem.

The bill does not appear to have a negative fiscal impact on state or local government.

The effective date of this bill is October 1, 1999.

CS/HB 221--Sales Tax/Coins, Currency, Bullion by Financial Services and Trovillion (SB 132 by Klein)

House Committee(s) of Reference: Financial Services; Governmental Rules & Regulation; Finance & Taxation; General Government Appropriations;

This bill creates a retail sales tax exemption for transactions of coin or currency which is legal tender of the United States, and creates an exemption for other coins or currency transactions over \$500. The bill also provides for a sales tax exemption for gold, silver, and/or platinum bullion transactions over \$500. In either of the transactions, the seller/dealer is required to maintain documentation identifying the portion of a transaction to which these exemptions apply.

The Director of the Department of Revenue is given the authority to adopt emergency rules under section 120.54(4), F.S., and section 120.536(1), F.S., for the purposes of prescribing the forms, documentation, and procedures necessary to administer the exemptions provided under this act. Notwithstanding any other provision of law, such emergency rules will remain in effect for a period of six months.

The estimated fiscal impact upon General Revenue is (\$0.3) million for FY 99-2000 and (\$0.3) million for FY 2000-2001. There will be a negative, but insignificant impact on the Solid Waste Management Trust Fund and local governments. The total estimated fiscal impact for this bill is (\$0.3) million for FY 1999-2000 and (\$0.3) million for FY 2000-2001.

Unless otherwise provided, the bill's effective date is July 1, 1999.

HB 743--Limited Liability Companies by Lacasa as Sections 1 and 4 of CS/SB 318, 2nd Eng.--General Bill by Fiscal Resource and Lee (HB 1943 by Finance & Taxation; Albright and others)

Senate Committee(s) of Reference: Fiscal Resource

All of the provisions of HB 743 which passed the Financial Services Committee were incorporated into Sections 1 and 3 of CS/SB 318. Section 1 of this bill will permit limited liability companies (LLC's) which have merged with other business entities to be identified with an "affiliated group of corporations," as defined by Section 199.023(8), F.S. (1998 Supp.). Section 3 of the bill authorizes such LLC's to file a consolidated intangible tax return with that group pursuant to Section 199.052, F.S. (1998 Supp.).

This bill will have no fiscal impact on state or local governments.

The effective date of the bill is January 1, 2000.

CS/SB 990--BANKS & TRUSTS/POWERS & DUTIES by Banking and Insurance and Grant; (HB 443 by Flanagan)

Senate Committee(s) of Reference: Banking and Insurance;

This bill effectively reenacts a provision scheduled for repeal September 1, 1999, which exempts certain banks or associations and trust companies from a prohibition against corporations conducting trust business in Florida. Specifically, the bill affirms this exemption for those banks or associations and trust companies resulting from an interstate merger transaction with a Florida bank under s. 658.2953, F.S., that have trust powers. Additionally, the bill incorporates this language into a restatement of the existing statutory language which exempts from this prohibition banks or associations and trust companies incorporated in Florida and national associations or federal associations lawfully conducting trust business in the state that has been approved by the Office of the Comptroller of the Currency. This provision clarifies that such out-of-state entities do not have to be physically located in the state, which in essence codifies in Florida law a current practice which is authorized under Federal banking laws.

This bill does not appear to have a fiscal impact on state or local governments.

The effective date of the bill is September 1, 1999.

CS/SB 1280--Financial Institutions by Banking and Laurent (HB 535 by Green)

Senate Committee(s) of Reference: Banking and Insurance

The bill amends s. 655.0385, revising the time period within which state financial institutions must notify the Department of Banking and Finance concerning the appointment or the employment of certain individuals and authorizing the Department of Banking and Finance to exempt certain financial institutions from reporting requirements (re. directors & executive officers). Also, the bill amends s. 655.948, F.S., revising notice and disclosure requirements and amends s. 658.26, F.S., exempting certain financial institutions from reporting requirements.

The bill does not appear to have a fiscal impact upon local governments, but Department of Banking & Finance projects reduced revenues of \$72,00 annually.

The effective date of the bill is July 1, 1999.

CS/SB 1264, 1st Eng.--Consumer Finance by Banking and Insurance and Rossin (CS/HB 661 by Financial Services and Roberts)

Senate Committee(s) of Reference: Banking and Insurance

The bill revises Chapter 516 (consumer finance) and Chapter 520 (retail installment loan), F.S., to conform the Department of Banking and Finance's regulatory provisions for these licensee's with the department's regulatory provisions for other financial services industries. The bill:

- eliminates the Department of Banking and Finance's authority to set fees by rule, and consolidates examination fees with application and renewal fees for Chapters 516 and 520, F.S.;
- eases notification requirements for relocation of offices and establishes a requirement to notify the department if the licensee is the subject of a bankruptcy action;
- expands the grounds for disciplinary action by the department to include a plea of nolo contendere to a crime involving fraud, dishonest dealing, or any other act of moral turpitude;
- expands installment contract requirements by requiring licensees to make certain disclosures on the written itemization and requiring lenders to provide the borrower evidence of satisfaction and to ensure that the title or contract indicates that the lien has been satisfied or released;

- permits borrowers to defer an installment payment for a fee, and authorizes lenders to charge a fee if the contract is paid in full within six months after the effective date of the contract;
- authorizes the department to promulgate rules permitting the electronic filing of fees and forms;
- authorizes retail sellers to collect a processing fee for retail installment contracts; and,
- makes numerous technical revisions to correct statutory cross reference citations.

According to the department's estimates, the bill may result in a negative fiscal impact of (\$336,000) for FY 1999-2000, a positive impact of \$764,500 for FY 2000-2001, and a negative fiscal impact of (\$625,000) for FY 2001-2002.

Unless otherwise provided, the bill has an effective date of October 1, 1999.

CS/SB 1326, 1st Eng.--Mortgage Brokers & Lenders by Banking and Insurance and Lee (HB 533 by Goode)

Senate Committee(s) of Reference: Banking and Insurance; Fiscal Resource

The bill revises Chapter 494, F.S., in general to conform the Department of Banking and Finance's regulatory provisions for mortgage brokers with the department's regulatory provisions for other financial services industries mainly by consolidating examination, application, and renewal fees resulting in an increase in some application and renewal fees. The bill requires reports listing associates or loan originators employed by licensees between October 1, 1999 and December 31, 1999, and for quarterly reports thereafter, and authorizes independent contractors to contract directly with mortgage lenders and prohibits independent contractors from contracting with more than one mortgage lender at a time.

Specifically, as to mortgage brokers and mortgage brokerage businesses, the bill clarifies disclosure requirements for written agreements, and eliminates the requirement to physically locate a principal place of business in Florida.

Specifically, as to mortgage lenders and correspondent mortgage lenders, the bill provides that each mortgage lender is accountable for any activity of an independent contractor. The bill also corrects and conforms statutory language to state that a mortgage lender or correspondent mortgage lender is not prohibited from acting as a "mortgage brokerage business."

The DBF estimates a \$0 impact for FY 1999-2000, a positive impact of \$225,000 for FY 2000-2001, and a negative impact of (\$225,000) for FY 2001-2002.

The bill has an effective date of October 1, 1999, unless otherwise provided.

**HB 2169--Real Estate Brokers & Salespersons by Goodlette as
Section 2 of CS/HB 417, 1st Eng.--Real Estate Brokers &
Salespersons by Real Property & Probate; Miller and Others
(CS/SB 1072 by Regulated Industries and Sullivan)**

House Committee(s) of Reference: Business Regulation & Consumer Affairs; Real Property & Probate;

The provisions of HB 2169 which passed the Committee on Financial Services eventually passed the Legislature as Section 2 of CS/HB 417. Section 2 of that bill amends s. 475.011, F.S., to exempt certain licensed securities dealers and certain licensed financial institutions from the registration requirements for real estate brokers if the dealers or institutions negotiate the purchase, sale, exchange or rental of a business enterprise to or by an accredited investor and the transaction involves the sale or purchase of land, buildings, fixtures, or other improvements to the land. The exemption does not apply to such purchases which are not made in connection with the transaction conducted in relation to the business enterprise.

The bill is effective October 1, 1999.

**CS/SB 2496, 1st Eng.--Intangible Personal Property Taxes (HB
1875 by Cantens)**

Senate Committee(s) of Reference: Fiscal Resource; Commerce and Economic Opportunities;

Only Section 3 of HB 1875 passed as Section 1 of CS/SB 2496. This section maintains the requirement that intangible tax would still be paid on any future advancement made against an instrument deemed a mortgage that provides for future advancements. However, it specifies that the nonrecurring intangible tax would be payable on the face amount of a line of credit, that is secured by a mortgage, deed of trust, or other lien, at the time the line of credit is established instead of paying intangible tax on each and every draw of the revolving line of credit.

According to the Fiscal Impact Committee Conference, the effect of this section in the first few years may result in a positive impact even though this issue carries a recurring negative impact of (\$3.5m). The first few years the state gets more money since the tax is paid when the line of credit is started. Later the state gets less money since the line of credit is not taxed every time a draw is made. According to the Committee the breakdown of the fiscal impact is as follows:

Fiscal Impact:	FY 99-00	FY 00-01
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Lines of credit:

General Revenue	\$2.4m	\$1.1m
Local	\$1.5m	\$0.6m

Unless otherwise noted, the bill become effective July 1, 1999.

INSURANCE COMMITTEE

1999 End-of-Session Summary

Bills that Passed Both Houses

HB 295, 2nd Eng.--Personal Injury Protection **by Villalobos (CS/SB 1978 by Banking and Insurance; Diaz-Balart)**

House Committee(s) of Reference: Insurance; Judiciary

Insureds would be authorized to elect a deductible amount in combination with the exclusion of wage loss benefits under personal injury protection coverage that is required by Florida law for motor vehicle owners. Insurers would be required to disclose the option in a form approved by the DOI or on a form prescribed by law.

The provision in current law which makes Medicare and the coordination of military benefits primary to an insured's PIP insurance would be removed.

A motor vehicle insurer would be required to provide an insurer 30 days advance written notice at the time of renewal of any premium increase for a motor vehicle insurance policy.

The coverage election option and the 30-day notice of premium increase would apply to policies issued or renewed on or after July 1, 2000.

The bill provides that to be exempt from the requirement of having to make a down payment equal to at least 2 months premium on a motor vehicle insurance policy by paying through a payroll deduction plan or an automatic electronic funds transfer plan, an applicant must agree to pay all premiums in that manner. These policyholders would also be required to carry at least the minimum amounts of personal injury protection insurance and property damage liability, in addition to bodily injury in the amount of \$10,000 / \$20,000.

The effective date of the bill is July 1, 1999.

CS/HB 403, 1st Eng.--Title Insurance **by Insurance; Byrd and Others (CS/SB 746 by Banking and Insurance; Grant)**

House Committee(s) of Reference: Insurance

The committee substitute makes several changes to Florida law relating to title insurance.

The committee substitute contains the substance of CS/CS/CS/HB 93 (by Representative Starks) which revises the title insurance reserve requirements by:

- ◆ revising the release schedule for unearned premium reserves from a uniform 12 year release of 8.34 percent to a 20 year release schedule characterized by a 30 percent release the first year and one percent releases the final five years; and
- ◆ requiring each insurer to obtain an actuarial statement regarding the insurer's loss reserves and to supplement their premium reserves if the actuarially recommended level is higher than the insurer's actual level of reserves.

The committee substitute also restores the remuneration framework in existence for title insurance agents before the case of Butler v. Department of Insurance --i.e., the Florida law would again prohibit title insurance agents from negotiating, or offering any rebates on, the 70 percent portion of the premium retained by the title insurance agent. The committee substitute would also reenact anti-rebating provisions for title insurance.

Finally, the committee substitute would establish title insurance rates in statute for a three year period, including the title insurance rates for original owner's and leasehold and mortgage title insurance, reissue transactions, substitution loans, and new home purchases. The committee substitute retains for the same three year period the Department's current rules relating to premium rates that do not conflict with the provisions of the committee substitute. The committee substitute would also prohibit the Department of Insurance from granting any deviations from the established rates.

The effective date of the bill is July 1, 1999.

HB 717, 1st Eng.--Bail Bonds

by Crow (CS/CS/SB 1516 by Criminal Justice; Banking and Insurance; Clary)

House Committee(s) of Reference: Insurance; Corrections

This bill would revise various provisions in Chapter 903, F.S., including:

- ◆ extending the time frame within which the court can discharge a forfeiture of a bail bond which also would extend the time before a court could enter a judgment against a bail bond agent;
- ◆ requiring the court to set aside the forfeiture and discharge the bond if the defendant is arrested and returned to the county of jurisdiction prior to judgment;

- ◆ reducing the time frame after a judgment within which a bail bond agent can pay the judgment; and
- ◆ providing that original appearance bonds expire 36 months after the date the bond is posted.

This bill would also revise Chapter 648, F.S., relating to bail bond agents, so that guest lecturers may teach continuing education courses for bail bond agents in the presence of the supervising instructor.

The effective date of the bill is 60 days after adjournment sine die.

HB 897, 1st Eng.--Insurance anti-affiliation
by Sublette (CS/CS/SB 2402 by Agriculture and Consumer Services;
 Banking and Insurance; Rossin)

House Committee(s) of Reference: Insurance; Financial Services

Under current law, licensed insurance agents may not engage in “insurance agency activities” through a financial institution except in the case of a bank located in a city with a population of less than 5,000. The activities include the negotiation or sale of insurance policies or the servicing of an insurance policy. For purposes of this prohibition, “financial institution” includes “any bank, bank holding company, savings and loan association, . . . or any subsidiary, affiliate, or foundation of the foregoing.”

The anti-affiliation law would be repealed under the bill. Repealing the law would have the effect of permitting insurance agents associated with or employed by a financial institution to engage in insurance agency activities regardless of the population of the town in which the financial institution is located. Also, the authority would not be limited to just banks but to other financial institutions such as savings and loans. These activities would include the negotiation or sale of insurance products or the servicing of insurance policies. The bill would make no distinction between nationally-chartered (national banks) or federally-chartered (savings and loans) and state-chartered financial institutions. However, national banks would remain subject to the limitation on sales of insurance products in towns with populations of 5,000 or more contained in the National Bank Act. State-chartered banks would not be since they are not limited in this regard by the federal act. Included would be a set of regulatory requirements for the sale of insurance products in connection with other financial transactions.

The effective date of the bill is July 1, 1999.

***HB 975, 1st Eng.--Hurricane Loss Mitigation**
by Feeney and Others (SB 872 by Latvala)

House Committee(s) of Reference: Community Affairs; Finance & Taxation; General Government Appropriations

HB 975 requires that the Legislature annually appropriate \$7 million of the money authorized for appropriation from the Florida Hurricane Catastrophe Fund under s. 215.555(7)(c), F.S., to the Department of Community Affairs (DCA) for the Hurricane Loss Mitigation Program. These funds shall be used for programs to improve the wind resistance of residences and mobile homes through loans, subsidies, grants, demonstration projects, direct assistance, and other programs.

In the first year, 40 percent of the funds is to be used for mobile homes, 30 percent in the second year, and 20 percent in the third year. Ten percent of the money appropriated must be used by the Type I Hurricane Center of the State University System to support research and the development of loss reduction devices and techniques for residences.

The DCA is required to develop programs in consultation with an advisory council consisting of a representative of the Department of Insurance, a representative of the home builders, a representative of the insurance industry, a representative of the Federation of Mobile Home Owners, a representative of the Florida Association of Counties, and a representative of the Florida Manufacturer Housing Association.

The DCA is required to provide a full report of activities to the Speaker, the President of the Senate, and the Majority and Minority Leaders of the House and Senate.

This law is to be repealed on June 30, 2002.

The effective date of the bill is July 1, 2000.

**CS/HB 1749, 1st Eng.--Service Warranties
by Insurance; Farkas and Others (CS/SB 1234 by Banking and
Insurance; Latvala)**

House Committee(s) of Reference: Insurance; Business Regulation and Consumer Affairs; Judiciary

CS/HB 1749 prohibits an insurer that provides contractual liability coverage for 100 percent of the claims from delegating the responsibility for maintaining the claims reserve to the service agreement company. The insurer is also required to maintain adequate reserves to cover all claims exposure of the service agreement company for the duration of the policy.

The bill authorizes the motor vehicle service agreement company to set forth certain restrictions or limitations of the motor vehicle service agreement contract in regular type with a boldface heading, rather than boldface type.

Home warranty contracts would be required to state in conspicuous, boldfaced type that the home warranty may not provide coverage free of charge for the period that the home is listed for sale.

Maintenance service contracts that are longer than one year would be included in the definition of service warranty. Maintenance service contracts for less than one year that also provide a combination of parts and labor discounted by more than 20 percent fall under the definition of a service warranty. As such, these types of maintenance service contracts would be subject to regulation by the DOI.

The bill requires a service warranty association to obtain contractual liability insurance from an insurer that is authorized to write insurance in the state.

The effective date of the bill is upon becoming a law.

***CS/CS/SB 230, 1st Eng.--Department of Labor and Employment Security by Commerce and Economic Opportunities; Governmental Oversight and Productivity; Webster (HB 73 by Merchant & Others)**

House Committee(s) of Reference: N/A

This bill relates to the reorganization of the Department of Labor and Employment Security.

Sections 6, 7, 8, and 9 of the bill relate to the Division of Safety. These sections specifically limit the Division of Safety's jurisdiction to public sector employers only. The bill would also repeal the Division of Safety on July 1, 2000.

Section 38 of this bill relates to workers' compensation and would repeal the Division of Workers' Compensation's authority to charge up to \$50 for processing non-construction exemptions under s. 440.05, F.S.

The effective date of the bill is October 1, 1999.

***CS/SB 312, 2nd Eng.--Health Insurance by Banking and Insurance; Lee (CS/HB 2071 by Health Care Services; Peaden)**

House Committee(s) of Reference: N/A

CS/SB 312, 2nd Eng. includes the substance of CS/HB 1743 by Insurance and Wiles, relating to insurance fraud, and SB 1832, 1st Engrossed, relating to collateral protection insurance.

The bill makes a variety of changes to Florida law relating to insurance fraud and would adopt several of the recommendations of the Statewide Grand Jury. Some of the bill's changes include:

- ◆ Criminal penalties for insurance fraud are increased;
- ◆ Statutes of limitations for prosecuting insurance fraud are extended;
An Anti-Fraud Reward Program is established;
- ◆ HMOs are required to file anti-fraud plans and establish SIUs;
HMOs and HMO contracts are included under the law prohibiting false and fraudulent insurance claims and applications (s . 817.234, F.S.); and
- ◆ The criminal penalty for first offenses of "patient brokering" provisions are increased.

The bill appropriates \$250,000 from the Insurance Commissioner's Regulatory Trust Fund to implement the Anti-Fraud Reward Program.

This bill also includes the text of SB 1832, 1st Eng., relating to collateral protection insurance, which was also enacted by the Legislature as a separate bill.

The effective date of the bill is October 1, 1999.

CS/CS/SB 1242, 1st Eng.--Insurance & Investments by Judiciary; Banking and Insurance; Geller (HB 2235 by Gay)

House Committee(s) of Reference: N/A

CS/CS/SB 1242 would revise current law regarding viatical settlements several ways: advertising and sales materials would be available for DOI examination, additional disclosure requirements would be imposed, the DOI would be authorized to adopt a disclosure form by rule, the DOI would be authorized to issue cease and desist orders for regulatory violations, fines would be specified for certain violations, viatical settlement broker compensation would be required to be disclosed, and a person acting as a viatical sales agent would be required to be a licensed life agent.

Florida-based viatical companies would not be subject to Florida law when they enter into agreements with purchasers or viators in a state that regulates viatical settlements. In a state where viatical settlements are not regulated, Florida law would apply.

The section which prohibits a viator with minor children from viaticating more than 50 percent of a policy would not apply to out-of-state viators who enter into agreements with Florida-based viatical settlement providers. This section would be repealed June 1, 2000.

The effective date of this bill is upon becoming law.

***CS/CS/SB 1270--Traffic control/HSMV by Fiscal Policy;
Transportation; Casas (CS/HB 967 by Transportation; Kyle)**

House Committee(s) of Reference: N/A

A section of this bill amends s. 627.743, F.S., regarding the payment of third party claims. When making any payment on a third party claim for damage to a motor vehicle, insurers would be required to have a statement printed on the loss estimate that failure to use insurance proceeds to accordance with the security agreement could constitute theft under Florida law. This requirement would not apply if the insurer does not prepare the loss estimate.

This effective date of the bill is upon becoming a law.

**SB 1464--Depopulation/JUA
by Dyer (HB 995 by Gay)**

House Committee(s) of Reference: N/A

SB 1464 repeals a provision that prohibits the Florida Residential Property and Casualty Joint Underwriting Association (RPCJUA) from offering take-out bonuses and assessment exemptions to insurance companies that take policies out of the association when the policy count of the association falls below 250,000. As of March 1999, there were 212,704 policies in the RPCJUA.

The effective date of the bill is March 1, 1999, operating retroactively.

**CS/CS/SB 1790--Florida Hurricane Catastrophe Fund
by Fiscal Policy; Banking and Insurance; Holzendorf (CS/HB 1711
by Insurance; Waters & Others)**

House Committee(s) of Reference: N/A

CS/SB 1790 would limit the claims-paying capacity of the Florida Hurricane Catastrophe Fund (Cat Fund) to \$11 billion for a current year, unless the board determines there is \$11 billion of capacity for both the current contract year and a subsequent contract year. Any additional growth in capacity would be reserved for losses incurred in a subsequent year, until the claims-paying capacity also reached \$11 billion for the subsequent year. If this determination is made by the board, one-half of the Cat Fund's estimated claims-paying capacity in excess of \$22 billion would be added to the \$11 billion limit for the current contract year.

Any funds left after the Cat Fund meet its contractual obligations with insurers, including the Florida Windstorm Underwriting Association (FWUA) and the Residential Property Joint Underwriting Association (RPCJUA), would be paid to the FWUA and the RPCJUA, if needed.

To fund reimbursement payouts for a subsequent contract year, the board would be granted an additional 2 percent assessment authority, available only in the event that the original 4 percent assessment capacity has been used in a previous year and events have caused reimbursable losses in a subsequent contract year. Unused assessment authority from prior contract years could be carried forward to subsequent contract years. The maximum assessment the Cat Fund could levy is 6 percent, but no more than 4 percent could be assessed for any one contract year. By increasing the assessment authority from 4 percent to 6 percent, the Cat Fund has access to funding to restore a portion of its bonding capacity if losses in a contract year deplete existing Cat Fund capacity. At no time would the total amount of assessment for all years exceed 6 percent.

The effective date of the bill is June 1, 1999.

**SB 1832, 1st Eng.--Collateral Protection Insurance
by Casas (HB 789 by Dockery)**

House Committee(s) of Reference: N/A

SB 1832 would define "collateral protection insurance" as commercial property insurance of which a creditor (such as a bank) is the primary beneficiary and policyholder and which protects or covers an interest of the creditor arising out of a credit transaction secured by real or personal property. Initiation of such coverage is

triggered by the mortgagor's failure to maintain insurance coverage as required by the mortgage or other lending document.

As defined, collateral protection insurance policies would be exempt from:

- ◆ mandatory participation in the Florida Hurricane Catastrophe Fund. Such policies would be currently excluded by contract and rules of the State Board of Administration, but the bill's exemption is somewhat broader; and
- ◆ the assessment base for the personal lines residential property insurance account of the RPCJUA. However, as commercial property insurance, such coverage would be included in the assessment base for the commercial residential account.

The bill would have no effect on the FWUA assessment base.

The effective date of the bill is July 1, 1999.

**CS/SB 2268, 1st Eng.--Contracting
by Regulated Industries; Clary (HB 1975 by Business Regulation &
Consumer Affairs; Ogles)**

House Committee(s) of Reference: N/A

Section 28 of CS/SB 2268 contains language relating to fire prevention and control that passed the Insurance Committee in HB 1907.

Licenses and permits for servicing fire extinguishers and fire suppression equipment issued by the State Fire Marshal would be valid for a two-year period, rather than a single calendar year. The fees would be adjusted to reflect the longer license or permit period. The fee for a license or permit issued for one year or less would be 50 percent of the biennial fee. Each licensee or permit holder would be required to complete at least 32 hours of continuing education courses every 4 years.

This bill take effect October 1, 1999.

CS/SB 2554, 2nd Eng.--Insurance Contracts by Banking and Insurance; King (HB 783 by Murman)

House Committee(s) of Reference: N/A

CS/SB 2554, 2nd Eng., relates to health care provider contracts. The bill includes a portion of HB 1753, 1st Eng., relating to health insurance rate filings, and the substance of CS/HB 2075, relating to insurance licensing requirements and certified public accountants.

That portion of HB 1753, 1st Eng., included in the bill, requires all fiscal intermediaries to include a detailed explanation of services being reimbursed when making payments to health care providers.

CS/HB 2075, included in the bill, would allow certified public accountants to provide limited services while acting within the scope of practicing accounting. A CPA would be authorized to advise clients as to the need for obtaining insurance, the amount of insurance recommended, and the type of insurance recommended to be purchased. The bill prohibits a CPA from receiving any insurance commission or fee.

The effective date of the bill is July 1, 1999.

***Bill not considered by the Committee on Insurance but containing insurance issues.**

REGULATED SERVICES COMMITTEE

1999 End-of-Session Summary

Bills that Passed Both Houses

CS/SB 156, 1ST ENG--Alcohol & Tobacco Products/Minors by Comprehensive Planning, Local & Military Affairs, Hargrett and Others (HB 673, 1st Eng, by Eggelletion & Others)

House Committee(s) of Reference: N/A

The bill provides that a new location for on-premises consumption of alcoholic beverages may not be located within 500 feet of a school unless the county or municipal government approves the location as promoting the public health, safety and general welfare of the community. The bill exempts restaurants which derive at least 51 percent of their gross revenues from the sale of food and nonalcoholic beverages from the 500 feet restriction. The bill also exempts temporary three day permits issued to non-profit organizations from the 500 feet restriction. Finally, the bill makes the "purchase or the attempt to purchase" alcohol unlawful and makes the "attempt to purchase" tobacco products unlawful.

The bill provides that the act will take effect July 1, 1999.

CS/SB 172, 2ND ENG--Taxation by Fiscal Resource, Horne and Others (HB 53 by Bitner & Morroni; HB 1955 by Finance and Taxation, Albright, Bitner & Others)

House Committee(s) of Reference: N/A

Among its many taxation provisions, the bill reduces the surcharge on alcoholic beverages sold for consumption on a retailer's licensed premises by one-third. The surcharge is reduced to 6.67 cents on each one ounce of liquor or four ounces of wine, 4 cents on each 12 ounces of cider and 2.67 cents on each 12 ounces of beer. Distribution of surcharge revenue to the Children and Adolescents Substance Abuse [CASA] Trust Fund was increased in order that funding would not be diminished due to the reduction in surcharge collections. This reduced surcharge rate will reduce state revenue by approximately \$30.5 million in FY 99-00 and \$37.7 million in FY 00-01.

The bill provides that this provision will take effect September 1, 1999.

HB 209, 1ST ENG--Alcohol Sales/By the Drink by Bitner and Others (CS/SB 340 by Regulated Industries & Gutman)

House Committee(s) of Reference: Regulated Services; Election Reform; Community Affairs

The Constitution of the State of Florida, Article VIII, Sections 5 and 6, reserves to each county the authority to determine, through a local option election, whether the sale of "intoxicating liquors, wines, or beer" [intoxicating beverages] may be allowed in that county. Section 5 requires a petition request signed by 25% of the electors in the county to hold an election and prohibits another election on the same subject for a period of two years. General law sets forth the procedure for petitioning for and holding a local option election and requires the ballot to pose two, two-part questions to the electorate. The first question is whether to vote "for" or "against" the sale of intoxicating beverages. The second question is to vote whether to allow "sales by the package and drink" or whether to allow "sales by the package only."

This bill allows a county, which has previously voted to allow the sale of intoxicating beverages by the package, an additional option of having an election, after the expiration of two years, on the sole question of whether to also allow sales of intoxicating beverages for consumption on premises. This legislation would not, however, preclude a county election which poses the two, two-part questions presently required by general law.

The bill provides that the act will take effect July 1, 1999.

HB 315, 1ST ENG--Alcoholic Beverages by Gay and Others (HB 719, 1st Eng, by Pruitt; CS/SB 1070 by Regulated Industries & Sullivan; CS/SB 1162 by Regulated Industries & Scott)

House Committee(s) of Reference: Regulated Services; Business Development & International Trade

This bill amends the statutory definition of "discount in the usual course of business" to allow wine and spirit wholesalers to offer discounts, in addition to discounts based on volume, based on the license series or type held by the retailer. Additionally, this bill contains the substance of HB 719 which allows malt beverage distributors to charge different prices according to: county; branch location; whether the retailer sells the malt beverage for on-premises or off-premises consumption; or quantity, provided the price differentials are posted with the Division. These changes codify some existing industry practices and provide alcoholic beverage wholesalers with increased flexibility to respond to changing market conditions.

The bill provides that the act will take effect upon becoming law.

**SB 1426--Beverage License/Dunedin Fine Arts
by Latvala (HB 167 by Morroni & Others)**

House Committee(s) of Reference: N/A

This bill authorizes the issuance of a special alcoholic beverage license to the Board of Directors of the Dunedin Fine Art Center, Inc., a non-profit 501c(3) corporation. The license would authorize the sale and consumption of alcoholic beverages during special events held at the Center.

The bill allows the Board of Directors to transfer the license to qualified applicants who are authorized to provide food service at the Center. Upon termination of a food service vendor's contract, the license reverts to the Board of Directors by operation of law. The license is not transferable, however, to any other location. Further, the package sales of alcoholic beverages is prohibited.

The bill provides that the act will take effect upon becoming law.

**CS/SB 1444, 2ND ENG--Beverage License/Historic Structures
by Regulated Industries and Jones (CS/CS/HB 95 by Business
Development & International Trade; Regulated Services; Cosgrove &
Sorensen)**

House Committee(s) of Reference: N/A

This bill expands existing statutory criteria for a special hotel license to allow the issuance of a special liquor license to hotels and motels which are located in a historic structure if the establishment meets specified criteria. The hotel must:

- ◆ be located in a historic structure, as defined in s. 561.01(21);
- ◆ have no fewer than 10 and no more than 25 guest rooms;
- ◆ be located in a municipality in a constitutionally chartered county which, on the effective date of this act, has a population of no fewer than 25,000 and no more than 35,000 residents; and
- ◆ derive at least 60 percent of its gross revenue from the rental of hotel or motel rooms and the sale of food and non-alcoholic beverages.

The license would cover any restaurant or bar located in the hotel and would allow the sale and consumption of alcoholic beverages only on the licensed premises.

The bill creates an additional definition for a “specialty center” and includes any enclosed development which:

- ◆ has at least 170,000 square feet of leasable area which is under the dominion and physical control of the owner or manager of the development; and
- ◆ contains restaurants, entertainment facilities, specialty shops and a movie theater with at least 18 operating screens.

Alcoholic beverages sold for consumption on the premises by a vendor in these specialty centers may be consumed only in areas designated pursuant to s. 561.01(11) and may not be removed from the designated area.

The bill clarifies that all quota alcoholic beverage [liquor] licenses, whether issued under general law or under a special or local act, will be subject to the same requirements of the Beverage Law, including all assessments, surcharges, and transfer fees.

Finally, the bill allows the Division of Historical Resources of the Department of State to hold funds received from the sale of publications in either the operating trust fund of the Division or in a separate depository account of an approved citizen support organization subject to a letter of agreement.

The bill provides that the act will take effect upon becoming law.

CS/HB 1549--State Lotteries/Lottery Department by Regulated Services, Bense and Others (SB 1816 by Thomas)

House Committee(s) of Reference: Regulated Services; Judiciary

The bill allows a lottery prize winner to voluntarily assign all or part of that person's prize award pursuant to a court order subject to certain conditions. Such assignment could not include money subject to attachment for delinquent or defaulted child support payments or payment for debts owed to the state unless appropriate provision is made in the court order to satisfy the obligation. The Department of the Lottery is authorized to establish a reasonable fee to defray the costs of administering and processing such assignments. The bill requires the Department of the Lottery to request a private letter ruling from the Internal Revenue Service concerning the tax treatment of other prize winners. If the IRS determines that such assignments will affect the federal tax situation of other prize winners, then assignments will be prohibited.

The bill contains a contingent effective date, and provides that the act will take effect upon becoming law, except that the right to assign a prize will take effect September 1, 1999 or upon receipt of a favorable private letter ruling, whichever occurs earlier. If, however, an unfavorable private letter ruling is received prior to September 1, 1999, the department is required to file a copy of the ruling with the Secretary of State and the State Courts Administrator and the courts would be prohibited from issuing an order authorizing a voluntary assignment after that date. Similarly, if the act takes effect September 1, 1999 and an unfavorable private letter ruling is received after that date, the bill requires the same procedure to take place.

Utilities and Communications Committee

1999 End-Of-Session Summary

Bills that Passed Both Houses

SB 180, 1ST ENG. - Public Records/E911 Wireless Services by Comprehensive Planning, Local and Military Affairs (HB 511 by Logan)

House Committee(s) of Reference: N/A

This bill provides public records exemptions for emergency 911 service over wireless communications networks. These exemptions are comparable to those applicable for land line communications. This is a separate bill establishing the exemption to implement HB 621 which addresses wireless emergency 911 service.

The effective date of the bill is upon HB 621 or similar legislation becoming a law (July 1, 1999).

SB 182, 1ST ENG. - E911 Wireless Trust Fund by Comprehensive Planning, Local and Military Affairs (HB 513 by Logan)

House Committee(s) of Reference: N/A

This bill creates a trust fund necessary to implement HB 621, and provides for the administration of such a fund. The bill's implementation is tied to SB 178 becoming law. HB 621 passed but its senate companion, SB 178, did not. However, HB 17 and HB 591 were amended to include language making this bill effective upon HB 621, or similar legislation, becoming law.

HB 317, 1ST ENG.- Sales Tax/Real Property/Cable by Gay (CS/SB 1200 by Regulated Industries; Sullivan)

House Committee(s) of Reference: Utilities and Communications; Finance and Tax; General Appropriations

The bill amends s. 212.031(1)(a), F.S. to except from taxation the use of public or private streets or rights-of-way, poles, conduits, fixtures, and similar improvements located on such streets or rights-of-way when used by a utility of a franchised cable television company for utility, communications or cable television purposes. For purposes of the exemption, "utility" is any person providing utility services as defined by s. 203.012. The exception also applies to property excluding buildings, wherever

located, on which specified categories of equipment are placed when such equipment is used for the provision of cellular, enhanced specialized mobile radio, or personal communications services.

The bill amends s. 212.05(1)(e)1.a., F.S., to provide that the tax on calls made with a prepaid telephone calling card is to be collected at the time of sale and remitted by the dealer selling or recharging the card. The bill creates standards with respect to calling cards by establishing 1) what constitutes a "prepaid calling card," 2) the location of a calling card sale under various scenarios; and 3) that a calling card is property in this state and subjects the selling dealer to the jurisdiction of the state for purposes of the subsection.

The bill provides specifications governing prepaid calling cards.

The effective date of this bill is July 1, 1999.

HB 433, 1ST ENG. - Telecommunications Frequencies by Ball **(SB 874 by Bronson)**

House Committee(s) of Reference: Utilities & Communications; Governmental Operations; Community Affairs

The bill substantially amends s. 843.165, F. S., relating to unauthorized transmissions and interference to governmental and associated radio frequencies. It prohibits unauthorized persons from transmitting over radio frequencies assigned by the FCC to state, county, municipal governmental agency or water management districts or governmental and emergency medical frequencies unless authorized in writing by certain authorities. It provides that no person may knowingly interfere with transmissions by authorized volunteers for any governmental agency, water management district, public or private emergency medical services provider, or Skywarn when they are providing communication support upon request of a governmental agency. The bill provides that any violation constitutes a first degree misdemeanor punishable as provided in s. 775.082 or s. 775.083, F.S. The bill also provides certain exceptions.

The effective date of this bill is July 1, 1999.

CS/SB 1352, 1ST ENG. - Water and Wastewater Regulation by Regulated Industries; Bronson (HB 925 by Arnall)

House Committee(s) of Reference: N/A

The bill amends s. 367.081, F.S., to prohibit the PSC from imputing (deducting) prospective future contributions-in-aid-of-construction against a utility's investment in property used and useful in the public service. The bill further provides that the PSC shall consider utility property as used and useful in the public service if it is needed to serve current customers or is needed to serve customers in the future under certain conditions. The bill provides that, if prudently invested, the PSC shall approve rates for service which allow a utility to recover the full amount of environmental compliance costs. The bill construes the term "environmental compliance costs." It also provides that this section does not apply to rate cases that are pending before the PSC on March 11, 1999.

The bill amends s. 367.021, F.S., to expand the definition of "governmental authority" to include a nonprofit corporation formed for the purpose of acting on behalf of a political subdivision with respect to water or wastewater.

The bill amends s. 367.022, F.S., to add to the list of exempt entities not subject to regulation by the PSC as a utility, and that are not subject to the provisions of this chapter. The bill includes water facilities as well as wastewater facilities that are operated by private firms under water or wastewater facility privatization contract and nonprofit corporations as defined in s. . 367.021, F.S. It eliminates the requirement that resellers of water and wastewater services must file an annual report with the PSC. It adds an exemption for entities that sell or resell wastewater services to governmental authorities or utilities regulated by chapter 367.

Section 367.071, F.S., is amended to allow approval of sales, assignments, or transfers of certificate of authorization, or facilities, or control of a utility if the contract for sale, assignment, or transfer is made contingent upon commission approval.

The bill amends s. 367.0816, F.S., to provide that water and wastewater utilities may recover rate case expenses over a 4 year period and need not be reduced at the end of the 4 year period.

The bill amends s. 367.0814, F.S., to authorize the PSC, in staff assisted rate cases for Class C utilities, to allow the collection of interim rates by the utility until the effective date of the final order. The interim rates may be based on a test period different from the one used in determining permanent rate relief. The interim relief is contingent upon the utility demonstrating that the operation and maintenance expenses exceed the revenues of the utility. The interim rates may not exceed the level necessary to cover operation and maintenance expenses. The PSC has the discretion to require the difference between the interim rates and the previously authorized rates to be secured.

The bill also provides for finalization of interim rates under certain circumstances. It also provides that this act does not apply to rate cases that are pending before the PSC on March 11, 1999.

Section 367.082, F.S., is amended to provide that the PSC is to complete any rate case that is underway when a county asserts jurisdiction over utilities within its boundaries.

The bill amends s. 367.091, F.S., to provide that, upon filing an application with the PSC for new rates, the utility shall mail a copy of the application to the CEO of the governing body of each county within the service areas included in the rate request. The governing body may petition the PSC for leave to intervene in the rate change proceeding and the PSC must grant intervenor status to any governing body that files a petition.

The effective date of this bill is upon becoming a law.

HB 2123, 2ND ENG. - Telecommunications by Utilities & Communications; Rojas - (SB 1008 by Regulated Industries; SB 2264 by Lee; SB 2296 by Casas)

House Committee(s) of Reference: Education Innovation; General Government Appropriations

The bill amends s. 364.025, F.S. to extend authority for the interim universal service mechanism for one year. Similarly, the bill extends for one year the requirement that local exchange telecommunications companies are carriers of last resort; this is the requirement that local exchange companies serve everyone who requests service.

The bill creates s. 337.401(10), F.S., to clarify that, except for specified subsections, s. 337.401, F.S., does not apply to the provision of pay telephone service on public or municipal roads or rights-of-way. As a result, when allowing pay telephones to be placed in public rights-of-way, local governments will be allowed to charge pay telephone providers more than the caps established by s. 337.401, F.S.

The bill amends s. 364.0252, F.S., to provide that the PSC initiate a comprehensive and ongoing consumer telecommunications information on the Lifeline and Link-up programs for low-income households and alerting consumers how to protect themselves from “slamming” and “cramming”.

The bill amends s. 367.24, F.S., to allow a telecommunications company to provide to its customers their own customer account record through telephonic means.

The bill amends s. 240.311, F.S., to authorize the State Board of Community Colleges to develop and produce work products to support distance learning instruction which

are subject to trademark, copyright, or patent statutes. In this regard, the board shall consider entering into contractual agreement for proportional ownership of distance learning work products. The bill further provides for the obligation of the board in relationship to patents, copyrights, and trademarks on work products and the enforcement of its board rights. The bill also provides that any proceeds therefrom shall be deposited and expended by a Florida not-for-profit corporation, incorporated under the provisions of chapter 617 and approved by the Department of State, and the bill further outlines related issues. This includes that by December 31, 1999, and annually thereafter, the State Board of Community Colleges shall report on the implementation of this section to the Speaker of the House of Representatives and the President of the Senate.

The bill creates new sections to transfer the distance learning provisions from chapter 364, F.S., to new ss. 241.001 - 004, F.S. The bill provides for definitions for the duties of the DOE concerning distance learning, for the creation, membership, organization, and meetings of the Florida Distance Learning Network Advisory Council, and for the administration of the Educational Technology Grant Program.

The bill repeals ss. 364.509, 364.510, 364.511, 364.512, 364.513, 364.514, F.S., which includes provisions establishing the distance learning network, the powers of the Board of Directors for the network, the executive director for the network, and the annual report.

The bill creates the Information Service Technology Development Task Force for two years to be located in the Department of Management Services. The Task Force is to 1) develop overarching principles to guide state policy with respect to the free market development and beneficial use of advanced communications networks and information technologies, 2) identify factors that will affect whether these technologies will flourish in Florida, and 3) develop policy recommendations for each factor. The Task Force is to report to the Governor, the Speaker of the House, and the President of the Senate annually. The bill provides for membership on the Task Force, authorizes four positions and appropriates \$250,000 for the Task Force.

The bill repeals language in the budget which established standards to measure commission performance for purposes of performance based budgeting.

The effective date of this bill is upon becoming a law except as otherwise provided.

**HOUSE OF REPRESENTATIVES
CRIMINAL JUSTICE &
CORRECTIONS COUNCIL**
1999 SUMMARY OF PASSED LEGISLATION



COMMITTEE ON CORRECTIONS

Representative Allen Trovillion, Chair
Representative Paula B. Dockery, Vice-Chair

COMMITTEE ON CRIME & PUNISHMENT

Representative Randy Ball, Chair
Representative Christopher Smith, Vice-Chair

COMMITTEE ON JUVENILE JUSTICE

Representative Sharon Merchant, Chair
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**COMMITTEE ON LAW ENFORCEMENT &
CRIME PREVENTION**

Representative Howard E. Futch, Chair
Representative Ed Healey, Vice-Chair

Representative Victor D. Crist, Council Chair
May 1999

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COMMITTEE ON CORRECTIONS

1999 End-of-Session Summary

Bills that Passed Both Houses

CS/HB 253--County and Municipal Jails by Corrections; Trovillion (CS/SB 292 by Bronson)

House Committee(s) of Reference: Corrections; Crime & Punishment; Community Affairs; Criminal Justice Appropriations

The bill addresses issues concerning county and municipal jails. The bill provides that the gain-time granted to county prisoners be at the discretion of the board of county commissioners.

The bill deletes the requirement that boards of county commissioners, when adopting policy for extra good time allowances for meritorious conduct or exceptional industry for county and municipal prisoners, be in accordance with the existing policy of the Department of Corrections for such awards for state prisoners.

The bill provides that a knowingly and willfully refusal to obey rules governing prisoner conduct, by any prisoner in a county and municipal jail, may be prosecuted as a second degree misdemeanor. It moves the granting of gain time by county commissioners from mandatory to discretionary.

The bill also provides that prisoners in a county or municipal correctional facility who knowingly on two or more occasions violates a conduct rule as set forth in Chapter 13 of the Florida Jail Model Standards may be punished as a second degree misdemeanor.

This bill takes effect July 1, 1999.

HB 2133--Correctional Work Programs by Peaden (passed as CS/SB 1604 by Criminal Justice Committee; Silver & Others)

House Committee(s) of Reference: Corrections; Criminal Justice Appropriations

The bill deletes the statutory authority of the Department of Corrections to enter into contracts with private sector businesses to operate Prison Industry Enhancement (PIE) Programs.

It provides PRIDE Enterprises (PRIDE), the statutory authority to enter into contracts with the private sector to operate PIE programs. It authorizes PRIDE to seek federal certification to administer PIE programs in Florida, rather than the department.

The bill provides statutory provisions that are necessary in order to seek the PIE certificate. It authorizes PRIDE to enter into leases directly with the Board of Trustees of the Internal Improvement Trust Fund for a period of at least 20 years for lands currently subject to specific leases.

It authorizes PRIDE to seek tax-exempt financing for the construction of buildings or capital improvements for correctional work programs and PIE programs on state-owned lands. In such cases, the state would retain a secured interest in such an investment by holding a lien against any structure or improvement that used tax-exempt financing or state funds.

The bill authorizes the department to sell any surplus food items cultivated by inmates to PRIDE. It also authorizes PRIDE to establish and operate work camps for jails. The work camps would use jail inmates for labor in correctional work programs or PIE programs. PRIDE would directly enter into contracts with local governments and the sheriffs or jail administrators to operate work camps for the respective jurisdictions.

The provisions of the act would take effect on July 1, 1999.

HB 2161--Department of Corrections Reorganization by Corrections; Trovillion (passed as CS/SB 1742 by Criminal Justice Committee; Brown-Waite)

House Committee(s) of Reference: Governmental Operations; General Government Appropriations

The bill authorizes the reorganization of the Department of Corrections. The secretary of the department would have increased flexibility in determining the middle- and upper-management organizational structure of the department and the administration of state appropriations to the department to perform its functions and duties.

The bill narrows the department's administrative structure at the regional level by deleting the requirement that there be five regional offices in the state, deleting the requirement that there be five regional directors, and deleting the current statutory requirement that each region have six division directors.

It provides for the rights and needs of crime victims to be a high priority of the department. It moves the responsibility of overseeing the inmate grievance procedure from the department's Office of the Inspector General to the Office of the General Counsel.

The bill requires the department to provide certain minimum services and programs for persons visiting inmates at correctional facilities. It requires the secretary to determine any deficiencies in the family visitation program and submit budget recommendations to

the Legislature for any improvements to visitation services and programs. The inmate welfare trust fund is explicitly permitted to be used for visitation services and programs.

The bill deletes a reference to “planning” and “designing” in the department’s authorization to contract with government agencies to perform work and other projects.

The bill transfers the Gadsden Correctional Institution currently under contract with the department to the Correctional Privatization Commission by July 1, 1999. It requests the Division of Statutory Revision to change the word “superintendent” to “warden” in selected statutory references.

The bill also prohibits the use of tobacco products by inmates, employees and visitors in state and private correctional facilities in “prohibited” areas. The bill provides authorization to the department and private prisons to adopt rules and policies in order to meet the provisions of the bill. The bill also requires the DOC and private vendors operating state correctional facilities to make smoking-cessation assistance available to inmates. Full implementation of the provisions regarding tobacco is to be by January 1, 2000.

The bill requires the Office of Program Policy Analysis and Government Accountability to conduct a performance review of the department’s reorganization efforts. It provides statutory intent that correctional facilities under contract to the Correctional Privatization Commission become property of the state upon expiration of the lease and that for certain correctional facilities, a payment (from CPC funds) in lieu of taxes, shall be paid to certain local taxing authorities.

This bill takes effect upon becoming law.

COMMITTEE ON CRIME & PUNISHMENT

1999 End-of-Session Summary

Bills that Passed Both Houses

CS/HB 13--Restitution

by Crime & Punishment; Heyman (CS/SB 744 by Criminal Justice; Campbell)

House Committee(s) of Reference: Crime & Punishment; Judiciary

The bill provides that in misdemeanor cases, the court shall retain jurisdiction for any specified period not to exceed five years. Currently, in misdemeanor cases a court does not have authority to enforce restitution orders after six months for a second degree misdemeanor or after one year for a first degree misdemeanor.

The effective date of this bill is October 1, 1999.

CS/CS/HB 23--Children's Protection Act of 1999

by Family Law & Children; Crime & Punishment; Ball (passed as CS/SB 170 by Criminal Justice; Bronson)

House Committee(s) of Reference: Crime & Punishment; Family Law & Children; Criminal Justice Appropriations

The bill redefines lewd, lascivious, or indecent assault into four new categories proscribing four types of lewd acts committed against children, by degree of severity.

The bill increases the penalty for certain lewd and lascivious offenses when the defendant is over 18, but reduces the penalty in certain cases, when both parties are minors.

The effective date of this bill is October 1, 1999.

CS/HB 49--Criminal Use of Personal ID Information

by Crime & Punishment; Trovillion & Others (CS/SB 286 by Criminal Justice; Campbell & Others)

House Committee(s) of Reference: Crime & Punishment; Judiciary; Criminal Justice Appropriations

CS/HB 49 makes it a third-degree felony to fraudulently use, or possess with intent to fraudulently use, any personal identification information without consent.

The bill makes it a first-degree misdemeanor to use or attempt to use personal identification information to harass an individual. "Harass" is specifically defined by the bill to exclude the use of personal identification information for accepted commercial purposes or for constitutionally protected conduct.

The bill defines the term "personal identification information" very broadly to include: name, address, social security number, date of birth, driver's license or identification number, any account number, passport number, telecommunication identifying information, etc.

The effective date of this bill is July 1, 1999.

HB 67--Sport Shooting Ranges by Fuller (SB 776 by Bronson)

House Committee(s) of Reference: Crime & Punishment; Judiciary

The bill provides that sport shooting ranges shall be permitted to continue in operation in violation of local law if the shooting range was not in violation of existing law at the time "of the enactment of the ordinance."

The bill relieves sport shooting ranges from civil and criminal liability for any claim of noise pollution, if the range was in compliance with any local noise control laws or ordinances at the time of construction and initial operation, and the range experienced no substantial change in the nature of use.

The bill prohibits state courts from enjoining the use or operation of a sport shooting range on the basis of nuisance claims brought on by noise or noise pollution, if the range was in compliance with any noise control laws or ordinances that applied to the range and its operation at the time of construction or initial operation of the range.

The bill exempts sport shooting ranges from the regulatory changes that limit outdoor noise levels if the new regulations were passed after the time of construction and initial operation.

The bill prohibits any person from bringing a nuisance claim against a sport shooting ranges in which there has been no substantial change in the nature of use from its initial operation. The bill does not exempt shooting ranges from actions for negligence or recklessness in the operation of the range.

The effective date is upon becoming a law.

HB 79--Airbag Antitheft Act

by Stafford (CS/SB 244 by Criminal Justice; Campbell)

House Committee(s) of Reference: Crime & Punishment; Criminal Justice
Appropriations

HB 79 creates the "Airbag Antitheft Act." The bill defines a "salvaged" airbag as an airbag that has been removed from a motor vehicle. The bill requires any person, who is engaged in the business of purchasing, selling, or installing salvaged airbags to maintain a manual or electronic record of the purchase, sale, or installation. This record must be kept for thirty-six months following the transaction, and may be inspected by law enforcement officers or other authorized agency representatives. Any person who sells a salvaged airbag must disclose to the purchaser that the airbag is salvaged. Moreover, information contained in the record must be provided, upon request, to an insurer or consumer.

The bill provides that any person who fails to maintain complete and accurate records, to provide information within the record, or to disclose that an airbag is salvaged commits a first degree misdemeanor. Furthermore, any person who knowingly possesses, sells, or installs a stolen uninstalled airbag, any airbag with a missing or altered identification number, or an airbag taken from a stolen motor vehicle commits a third degree felony.

The effective date of this bill is October 1, 1999.

CS/CS/HB 113--Felons/Increased Prison Terms

by Corrections; Crime & Punishment; Crist & Others (CS/SB 194 by Criminal Justice; Webster)

House Committee(s) of Reference: Crime & Punishment; Corrections; Criminal
Justice Appropriations

CS/CS/HB 113 amends section 775.087(2), F.S., to require a judge to impose a minimum term of imprisonment of ten years, instead of the current three years, for any person who possesses a firearm or "destructive device" at any time during the course of an enumerated offense or during an attempt to commit any of the enumerated felonies. The enumerated felonies include escape, burglary and most violent crimes. However, if the enumerated offense is aggravated assault, or burglary of a conveyance, or possession of a firearm by a felon, the minimum penalty remains three years and is not increased to 10 years by the bill. The mandatory penalty only applies to the offender who either possessed the firearm on his or her person, or who had the firearm within immediate physical reach with ready access and who had the intent to use the firearm during the offense.

The bill provides that a minimum sentence of 20 years must be imposed if an offender discharges a firearm during the course of one of the enumerated felonies.

The bill further provides that a minimum sentence of 25 years, and up to a life sentence, must be imposed if the firearm that an offender possesses during the course of an enumerated felony is discharged causing death or great bodily harm. The 20 and 25 year minimum mandatory sentences apply for all the enumerated felonies including aggravated assault and burglary of a conveyance.

The minimum mandatory sentences do not prohibit a judge from imposing a greater sentence as authorized by law.

The bill adds trafficking in illegal drugs and capital importation of illegal drugs to the enumerated crimes that can qualify an offender for the new minimum mandatory sentences if the offense occurred with a firearm.

The bill also increases the minimum sentence for the possession of a semiautomatic firearm and its high-capacity detachable box magazine or a machine gun during the course of an enumerated felony from 8 years to 15 years. If the machine gun is fired during the course of the felony, the mandatory penalty is 20 years, and if the machine gun is fired causing death or great bodily harm, the minimum sentence is 25 years to life.

The bill provides that the Legislature intends for the new minimum mandatory sentences to be imposed for each qualifying count and the court is required to impose the minimum mandatory sentences consecutive to any other term of imprisonment imposed for any other felony offense. State attorneys are required to prepare a report relating to the sentencing of offenders to the minimum mandatory terms and the report must be sent annually by the state attorneys to the Governor and the Legislature.

The Department of Corrections may spend up to \$500,000 to provide public service announcements to advertise the minimum mandatory penalties provided by the bill. The Governor shall place the announcements in the areas of the state that will be most affected by the bill.

The effective date of this bill is July 1, 1999, except as otherwise provided.

CS/HB 121--Three-Strike Violent Felony Offender Act by Corrections; Crist & Others (CS/SB 1746 by Criminal Justice; Lee)

House Committee(s) of Reference: Crime & Punishment; Corrections; Criminal Justice Appropriations

CS/HB 121 amends s. 775.084 F.S., to create a new “three time violent felony offender” enhanced penalty that is in addition to the already existing enhanced penalties for habitual felony offenders, habitual violent felony offenders, and career criminals provided for within the same section. The bill requires a judge to impose the statutory maximum sentence for a new violent felony if the offender committed at least two prior enumerated violent felonies. Thus, the mandatory penalties would be five years for a third degree felony, 15 years for a second degree felony, 30 years for a first degree felony, and life in prison for a life felony.

Section 775.084(5) F.S., currently provides that for the purposes of determining whether an offender qualifies for an enhanced penalty prior felonies are counted only if they were sentenced on separate occasions even if the crimes occurred on separate days. This method of counting prior offenses has not been changed.

The bill provides that any person convicted of aggravated assault or aggravated battery upon a law enforcement officer must be sentenced to a minimum mandatory prison term of three years or five years respectively.

The bill provides for a three year minimum mandatory prison term for aggravated assault or aggravated battery against a person 65 years of age or older.

The bill requires a minimum mandatory prison sentence of ten years for a defendant convicted of sexual battery if the offender has a previous conviction for sexual battery or attempted sexual battery within ten years before committing the second sexual battery.

The bill provides for a three year minimum mandatory prison sentence for the possession or sale of the following:

1. 25 to 2,000 pounds of cannabis (marijuana) plants;
2. between 300 to 2,000 cannabis plants;
3. 28 to 200 grams of cocaine; or
4. 4 to 14 grams of heroin, opium, morphine or a related drug.

The bill provides for a seven year minimum mandatory prison sentence for the possession or sale of the following:

1. 2,000 or more cannabis plants;
2. 2,000 to 10,000 pounds of cannabis; or
3. 200 to 400 grams of cocaine

The bill provides for a 15 year minimum mandatory prison sentence for the possession or sale of the following:

1. 10,000 or more cannabis plants; or
2. 14 to 28 grams of opium, heroin, or morphine;

The bill creates similar three and seven year mandatory penalties for possession or sale of methaqualone, phencyclidine, amphetamines, and flunitrazepam (roofies).

The bill also requires Clerks of the Court to notify Immigration and Naturalization Services whenever an alien is convicted of or enters a plea for a felony or misdemeanor offense.

The effective date of this bill is July 1, 1999.

HB 135--Controlled Substances/Child Care by Levine (passed as SB 134 by Klein)

House Committee(s) of Reference: Crime & Punishment; Corrections; Criminal Justice Appropriations

The bill moves a misplaced statutory provision relating to the illegal sale or possession with intent to sell certain controlled substances within 1,000 feet of a child care facility. The misplaced provision requires that a sign clearly identify a child care facility before an enhanced penalty may apply. The bill places this requirement for a sign to be posted in the paragraph that actually enhances the penalty instead of in its current unrelated subsection.

This act shall take effect upon becoming a law.

HB 147--Pretrial Intervention Programs by Alexander & Others (passed as CS/SB 60 by Criminal Justice; Brown-Waite)

House Committee(s) of Reference: Crime & Punishment; Corrections; Criminal Justice Appropriations

The bill revises the statute governing pretrial intervention programs to authorize the court or the state attorney to deny the admission of a defendant to a pretrial substance abuse and treatment intervention program if the defendant has rejected any prior offer of admission to such program.

The effective date of this bill is July 1, 1999.

**CS/HB 183--Sexual Battery/Prejudice/Penalties
by Crime & Punishment; Fasano (CS/SB 912 by Criminal Justice;
Latvala)**

House Committee(s) of Reference: Crime & Punishment; Corrections; Criminal Justice Appropriations

CS/HB 183 amends Section 775.085 to provide that crimes evidencing prejudice, also known as "hate crimes", shall be reclassified to the next highest degree instead of being "punishable as if it were" a felony of the next highest degree.

The committee substitute amends Section 794.023 to provide that sexual battery committed by more than one person shall be reclassified to the next higher degree instead of being "punishable as if it were a felony of the next highest degree.

The effective date of this bill is July 1, 1999.

**CS/HB 327--Conflict of Interest/Indigents
by Crime & Punishment; Warner (CS/SB 1910 by Judiciary;
Campbell)**

House Committee(s) of Reference: Crime & Punishment; Criminal Justice Appropriations

The committee substitute to HB 327 will amend section 27.53 to provide that when a public defender files a motion to withdraw due to a conflict of interest, the court should review the motion and may inquire into the adequacy of the public defender's representations regarding the conflict without requiring the disclosure of any confidential communications. The bill also provides that, after the inquiry, the court is to permit withdrawal unless the court determines that the claimed conflict is not prejudicial to the indigent client.

The committee substitute requires each circuit conflict committee to assess the conflict representation in its circuit and determine whether another system would be more cost-effective, offer greater administrative control and provide higher quality representation in conflict cases. Each committee is required to report its findings to the legislature by February 1, 2000.

This act shall take effect upon becoming law.

**CS/HB 389--Trooper Robert Smith Act
by Judiciary; Cantens (passed as CS/SB 748 by Criminal Justice;
Diaz-Balart & Others)**

House Committee(s) of Reference: Crime & Punishment; Judiciary; Criminal Justice Appropriations

The bill amends s. 907.041 to broaden court authority to order pretrial detention without bond, particularly for DUI manslaughter, violations of supervision and for persons who may not appear for trial or for persons who pose a risk of physical harm to the community.

The bill eliminates the 90-day cap placed on pretrial detention for defendants who pose a danger to the community. The bill eliminates the requirement that pretrial detention orders may be issued, only, pursuant to motion by the state attorney. Consequently, pretrial detention orders may issue after any bail hearing, so long as the court makes the required findings of fact.

The bill repeals Rule 3.131 & 3.132 of the Florida Rules of Criminal Procedure relating to pretrial release and pretrial detention to the extent that they are inconsistent with the bill.

This act has an effective date of October 1, 1999, except as otherwise provided.

CS/HBs 421 & 485--Voluntary Intoxication/Defense by Crime & Punishment; Lacasa and Others (CS/SB 54 by Criminal Justice; Lee & Others)

House Committee(s) of Reference: Crime & Punishment; Judiciary

CS/HB 421 provides that voluntary intoxication resulting from the consumption of alcohol or a controlled substance is not a defense to any offense. The bill provides that evidence of voluntary intoxication is not admissible to show that the defendant lacked the specific intent to commit an offense and is not admissible to show that the defendant was insane at the time of the offense except when the use of a controlled substance was pursuant to a lawful prescription issued to the defendant.

The bill takes effect October 1, 1999.

CS/HB 425--Robbery by Sudden Snatching by Judiciary; Sanderson & Others (CS/SB 772 by Criminal Justice; Rossin)

House Committee(s) of Reference: Crime & Punishment; Judiciary; Criminal Justice Appropriations

The bill creates a new offense of “robbery by sudden snatching.”

The bill defines “sudden snatching” as taking possession of money or other property from the victim, when the victim was aware of the taking. The bill further provides that in order to satisfy the definition of “sudden snatching,” it is not necessary to show that:

1. The offender used any amount of force beyond that effort necessary to obtain possession of the money or other property; or
2. There was any resistance offered by the victim to the offender or injury to the victim’s person.

The bill makes robbery by sudden snatching a second-degree felony if the offender carried a firearm or other deadly weapon. The bill makes the typical purse snatching offense a third-degree felony instead of a second-degree misdemeanor of petit theft, ranked as a level 5 offense in the offense severity ranking chart.

The bill provides an effective date of October 1, 1999.

HB 781--Court Costs/Community Service by Heyman (passed as SB 936 by Gutman)

House Committee(s) of Reference: Crime & Punishment; Criminal Justice
Appropriations

The bill amends s. 938.30, F.S. by allowing a judge to convert a person’s court-ordered obligation to pay court costs to an obligation to perform community service after examining the person under oath and determining his or her inability to pay.

The bill also amends the provision of s. 938.30 which authorizes the assessment of administrative cost in enforcing compliance by specifying that the court may assess reimbursement for the costs of processing bench warrants and pickup orders.

The bill has an effective date of July 1, 1999.

CS/HB 1441--Cable TV Services by Crime & Punishment; Kyle (passed as CS/SB 1606 by Criminal Justice; Silver)

House Committee(s) of Reference: Utilities & Communication (withdrawn); Crime &
Punishment; Judiciary; Criminal Justice Appropriations

The committee substitute makes it a third degree felony to willfully receive, intercept or assist in intercepting cable services without authority if the offender has previously been convicted of a misdemeanor for the same offense.

The committee substitute makes it a third degree felony to knowingly possess five or more devices that are “primarily useful” for the unauthorized reception of cable services. The intentional possession of 50 such devices is made a second degree felony. A person may receive up to five years in prison for committing a third degree felony and up to 15 years in prison for a second degree felony.

The committee substitute provides that the civil award of up to \$10,000 for a violation of this section and up to \$50,000 for a willful violation committed for commercial advantage may be recovered for each violation and is not a cumulative amount for all violations.

The bill takes effect on July 1, 1999.

HB 2187--Capital Collateral Representation
by Crime & Punishment; Ball & Others (passed as CS/CS/SB 2054
by Judiciary; Criminal Justice; Burt)

House Committee(s) of Reference: Crime & Punishment (PCB 99-04), Judiciary, Criminal Justice Appropriations

The Capital Collateral Regional Counsel (CCRC) represents defendants who have been sentenced to death in postconviction proceedings attacking the legality of the judgment and sentence in state courts and federal courts. In 1998, the legislature created a statewide registry of private criminal defense attorneys to provide representation to indigent defendants in postconviction proceedings when CCRC is unable to do so in a timely manner. HB 2187 makes several changes to the amount of compensation which an attorney appointed from the registry is entitled to receive.

The bill also provides that an attorney who is permitted to withdraw from a capital case prior to full performance of the attorney’s duties, shall deliver all files to the successor attorney within 15 days after notice from the successor attorney. The bill also provides that the court shall monitor the performance of assigned counsel to ensure that the defendant is receiving quality representation. Further, the bill renames the Commission on the Administration of Justice in Capital Cases to the Commission on Capital Cases.

The effective date of this bill is July 1, 1999.

HB 2189--Retailers/Customer Privacy/Videos
by Diaz de la Portilla (passed as CS/SB 1706 by Criminal Justice;
Meek)

House Committee(s) of Reference: Crime & Punishment

This bill makes it a first degree misdemeanor for any retail sales establishment or an employee of the establishment to directly observe or make use of video cameras or other surveillance devices to observe or record customers who are using the retail sales establishment's dressing room, fitting room, changing room or rest room.

The bill takes effect July 1, 1999.

COMMITTEE ON JUVENILE JUSTICE

1999 End-of-Session Summary

Bills that Passed Both Houses

HOUSE BILLS 137, 395, 1033, and 2007 PASSED IN HB 349.

HB 1505--Children/Prearrest Diversion Program by Barreiro (Passed as SB 1178 by Silver)

House Committee of Reference: Juvenile Justice; Crime and Punishment; Criminal Justice Appropriations

This bill creates s. 985.3065, F.S., prearrest diversion programs, which may be established by law enforcement agencies or school districts in cooperation with the state attorney's office. Any youth alleged to have committed a delinquent act may be required to surrender his driver's license or refrain from driving for up to 90 days. If the youth fails to comply with the requirements of the program, the state attorney may notify the Department of Highway Safety and Motor Vehicles in writing to suspend the driver's license for up to 90 days.

This bill takes effect July 1, 1999.

HB 1769--Discretionary Direct File Criteria for Juveniles by Juvenile Justice; Merchant (Passed as SB 130 by Klein)

House Committee(s) of Reference: Crime and Punishment; Corrections; Criminal Justice Appropriations

This bill authorizes the State Attorney to direct file the charge of auto theft in adult court against a juvenile 14 to 15 years of age, if the juvenile has had at least one previous adjudication of delinquency for auto theft.

This bill takes effect July 1, 1999.

COMMITTEE ON LAW ENFORCEMENT AND CRIME PREVENTION

1999 End-of-Session Summary

Bills that Passed Both Houses

HB 349--Weapons & Firearms/School Property

**by Law Enforcement & Crime Prevention; Futch & Others (CS/SB
204 by Silver; SB 1540 by Dawson-White)**

House Committee(s) of Reference: Juvenile Justice; Criminal Justice Appropriations

The bill provides that a minor charged with possessing or discharging a firearm on school property be held in secure detention, and a probable cause hearing be held within 24 hours after the child is taken into custody. At the hearing, the court may order that the child continue in secure detention for a period of 21 days, during which time the appropriate medical, psychiatric, psychological, or substance abuse examination can take place and a written report can be completed.

This bill increases the penalty for a minor charged with possession of a firearm, for a second or subsequent offense, from a first degree misdemeanor to a third degree felony. The bill also increases the allowable time in detention to three days for a first offense, and 15 days for a second or subsequent offense. It also recommends community service hours for such an offense to be performed in an emergency room or other medical environment that deals with trauma patients and gunshot wounds.

For offenses involving the use or possession of a firearm, the bill requires the juvenile to serve at least 15 days in secure detention for a first offense, and 21 days for a second or subsequent offense. The bill further provides that such juvenile offenders may be subject to placement on community control or in a nonresidential commitment program.

Under this bill, educational/technical and vocational work-related programs must be taught year round, five hours a day and five days a week. The Department of Juvenile Justice (DJJ) must assist youth with post-release job placement, and work in partnership with local businesses and trade groups in the development and operation of educational/technical and vocational work-related programs. The Juvenile Justice Accountability Board (JJAB) will study types of effective vocational and work programs and report to the Legislature and DJJ by January 31, 2000.

This bill provides that youth committed to juvenile justice facilities receive educational and vocational training on a 12-month basis, 250 days yearly. Youth committed to DJJ facilities must participate in statewide assessment testing. The bill also requires the

state board to adopt rules for high quality and effective education programs for youth committed to DJJ facilities by August 1, 1999. It also directs Department of Education to develop model contracts for the delivery of services, and requires youth in DJJ facilities to have school records and assessments included with them upon entering and exiting commitment programs. Under this bill, committed youth may earn a GED prior to release with any associated fees waived.

The bill reallocates revenue from the Florida Education Finance Program (FEFP) and categorical program appropriations to provide a proportionate or minimum share to Juvenile Justice education programs for delivery of educational services. The bill also provides for students with disabilities to be funded at the highest exceptional student weight for which the student qualifies.

In addition, the bill requires DOE, in coordination with the DJJ, to develop and conduct quality assurance site visits. Further, the bill directs the Department of Management Services to review existing facilities to determine the adequacy of the facilities for educational use. The bill also directs the Juvenile Justice Accountability Board to study the extent and nature of education programs for committed youth.

This bill revises employment screening and eligibility standards for the Department of Juvenile Justice (DJJ). The bill also authorizes the DJJ to expend funds for crime prevention activities, but prohibits such expenditures from being used for lobbying purposes. The bill also streamlines the current procedure for addressing violations of aftercare supervision, and authorizes law enforcement officers to take juveniles into custody for violating conditions of home detention, or for absconding from a commitment program. In addition, this bill improves access to juvenile records by law enforcement agencies, and provides that fingerprints of juveniles processed through assessment centers may be submitted to the Florida Department of Law Enforcement (FDLE). Also, this bill authorizes the DJJ to establish a direct support organization to provide support for the juvenile justice system.

This bill takes effect July 1, 1999.

HB 391--Criminal History Information by Law Enforcement & Crime Prevention; Futch (CS/CS/SB1936 by Brown-Waite)

House Committee(s) of Reference: Judiciary; Criminal Justice Appropriations

House Bill 391 amends s. 943.053, F.S., to require the Department of Law Enforcement to provide to each office of the Public Defender on-line access to state criminal records, that are not otherwise exempt from disclosure under Chapter 119 or confidential under law. The bill provides that access to the on-line information shall be used solely to support the statutory duties of the public defender or any attorney assigned to

represent a person who is determined to be indigent under s. 27.52, F.S. The bill requires the agency to which access has been provided to bear the costs of establishing and maintaining on-line access.

House Bill 391 also extends FDLE's Firearms Purchase Program by eight months, through June 1, 2000. It allows FDLE to reduce the charge for background checks, or suspend the collection of the fee altogether, to reflect any payment from the federal government for supplementing the National Instant Criminal Background Check System.

House Bill 391 also makes several technical changes to the statutes, addresses new federal laws, and defines FDLE's role with regard to the Criminal Justice Network. The bill clarifies that criminal history records pertaining to any of the "dangerous crimes" set forth in section 907.041, F.S., may not be sealed or expunged. The bill more precisely defines the meaning of "previously" being adjudicated guilty of a criminal offense which would preclude the sealing or expunging of criminal history records.

The bill gives FDLE a role in implementing the "Foley Amendment," which is a federal law to facilitate background checks for volunteers and employees of entities dealing with children, the elderly, or those with disabilities. The bill ratifies the National Crime Prevention and Privacy Compact and designates FDLE as the criminal history record repository for purposes of the contract.

The bill specifically defines FDLE's role with regard to the Criminal Justice Network, providing authority to manage the network and enter into relationships with non-criminal justice entities, so as to make products, programs, and services available over the network to criminal justice agencies.

The bill shall become effective on July 1, 1999.

CS/HB 11--Arrest Warrants/Issuance by Law Enforcement & Crime Prevention; Trovillion & Others (CS/SB 738 by Campbell)

House Committee(s) of Reference: Law Enforcement & Crime Prevention; Crime & Punishment; Criminal Justice Appropriations

House Bill 11 amends s. 901.02, F.S., by adding that a court may issue a warrant for a person's arrest when a misdemeanor summons has been returned unserved. Further, the bill specifies that a warrant is deemed issued when it is signed by the court.

The bill creates s. 901.36, F.S., to provide that it is a first degree misdemeanor offense for a person arrested or lawfully detained to give a false name or otherwise falsely identify himself or herself to a law enforcement officer or county jail personnel. This

offense is enhanced to a third degree felony in the event the giving of the false name or otherwise false identification results in adversely affecting another person.

The bill further provides that for a violation of s. 901.36, F.S., the court may order restitution and the correction of public records which contain the false name or false identification given, and that a person adversely affected by the unlawful use of his or her name or other identification may request from the court any orders necessary to correct any public record.

This bill has an effective date of July 1, 1999.

HB 71--Homicide/Vehicular & Vessel by Stafford (passed as SB 72 by Campbell)

House Committee(s) of Reference: Law Enforcement & Crime Prevention; Crime & Punishment; Criminal Justice Appropriations

The bill increases the penalty for vehicular or vessel homicide from a third degree felony to a second degree felony. The bills also increases the penalty for vehicular and vessel homicide from a second degree felony to a first degree felony when the driver fails to render aid or fails to give information if the driver knew or should have known that an accident occurred. The bill would not change the offense severity level rankings under the Criminal Punishment Code for these offenses.

The effective date of this bill is October 1, 1999.

HB 229--Weapons & Firearms/Nonresidents by Crady (passed as SB 954 by Bronson)

House Committee(s) of Reference: Law Enforcement & Crime Prevention; Transportation & Economic Development Appropriations

House Bill 229 provides that a U.S. citizen who is not a resident of Florida may carry a concealed weapon or firearm in this state, provided the person is 21 years of age or older and has a valid concealed weapons license from his or her state of residence. The bill further provides that when the holder of a valid concealed weapons license from another state establishes legal residence in the state of Florida, the license from the previous state remains in effect in Florida for a period of 90 days. Finally, the bill limits the applicability of these provisions only to those states which have reciprocity with the state of Florida with respect to the issuance of a concealed weapon or concealed firearms permit.

The effective date of this bill is July 1, 1999.

HB 1451--Less-Lethal Munitions **by Johnson** (passed as SB 1866 by Webster)

**House Committee(s) of Reference: Law Enforcement & Crime Prevention;
Governmental Operations; Criminal Justice Appropriations**

This bill specifies that “deadly force” shall not include the discharge of a firearm, loaded with a “less-lethal munition,” by a law enforcement officer or correctional officer during and within the scope of his or her official duties. This bill defines “less-lethal munition” to mean “a projectile that is designed to stun, temporarily incapacitate, or cause temporary discomfort to a person without penetrating the person’s body.”

The bill creates an affirmative defense for a law enforcement officer or correctional officer in any civil or criminal action arising out of the use of any less-lethal munition in good faith during and within the scope of his or her official duties.

This bill takes effect on July 1, 1999.

HOUSE OF REPRESENTATIVES ECONOMIC DEVELOPMENT COUNCIL 1999 SUMMARY OF PASSED LEGISLATION



COMMITTEE ON BUSINESS DEVELOPMENT & INTERNATIONAL TRADE

Representative Rudolph "Rudy" Bradley, Chair
Representative Anne Betancourt, Vice Chair

COMMITTEE ON TOURISM

Representative Robert "Bob" Starks, Chair
Representative Frank Farkas, Vice-Chair

COMMITTEE ON TRANSPORTATION

Representative Kelley Smith, Chair
Representative Bruce Kyle, Vice-Chair

**Representative Carlos L. Valdés, Council Chair
May 1999**

ECONOMIC DEVELOPMENT COUNCIL

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BUSINESS DEVELOPMENT & INTERNATIONAL TRADE COMMITTEE

1999 End-of-Session Summary

Bills that Passed Both Houses

CS/CS/SB 1566 -- Commerce

by Fiscal Policy, Commerce and Economic Opportunities, and Senators Kirkpatrick and Hargrett

Related Bills: HB 571, HB 579, CS/HB 647, CS/1ST ENG/HB 881, 1ST ENG/HB 985, CS/HB 1077, CS/HB 1147, 1ST ENG/HB 1479, HB 1495, 1ST ENG/HB 1825, HB 1963, HB 1977, HB 2017, HB 2075, HB 2103, HB 2129, 2ND ENG/HB 2073, HB 2183, HB 2193, HB 2195, CS/CS/1ST ENG/SB 0252, CS/1ST ENG/ SB 260, SB 886, CS/CS/SB 0972, SB 1054, SB 1066, CS/CS/2ND ENG/S 1560, CS/SB 1578, SB 1616, SB 1894, CS/SB 2152 & 1930, CS/SB 2242, SB 2548, CS/SB 2454.

Enterprise Florida Restructuring

The organizational structure of Enterprise Florida, Inc. (EFI), is substantially revised by the bill, through the elimination of the International Trade and Economic Development Board, the Capital Development Board, the Technology Development Board, and the Enterprise Florida Nominating Council. (The Workforce Development Board is revised based on the federal Workforce Investment Act of 1998. See ***Workforce Development*** section below.) Under the measure, EFI is authorized to create advisory committees or similar organizations to assist in carrying out its mission. At a minimum, EFI must, by August 1, 1999, establish advisory committees on international business and on small business, comprised of individuals with expertise in the respective fields.

This bill amends s. 288.9015, F.S., governing the mission of EFI, to specify that EFI shall aggressively market Florida's rural communities and distressed urban communities as locations for potential investment, assist in the retention and expansion of existing businesses in these areas, and assist these areas in the identification and development of new economic development opportunities for job creation. EFI is also charged with assessing, on an ongoing basis, Florida's competitiveness as compared to other states, and with incorporating the needs of minority and small businesses into its core functions of economic, international, and workforce development.

With respect to the management of EFI, the bill specifies that the organization's president shall serve at the pleasure of the Governor, although the board of directors shall establish and adjust the president's salary. The chairperson of EFI or the chairperson's designee is added to the membership of the authorized executive committee. In addition, the bill specifies that no employee of EFI may receive compensation exceeding the salary of the Governor, unless the board of directors and the employee have executed a contract under which the satisfaction of performance measures provides the basis for incentive payments that increase the employee's compensation above that earned by the Governor.

The bill amends EFI's responsibilities under s. 288.905, F.S., relating to development of a strategic plan, by revising required elements, eliminating required elements, and adding required elements. Among the revised or added elements is that the strategic plan must include strategies for the promotion of business formation, expansion, recruitment, and retention through aggressive marketing, international development and export assistance, and workforce development programs, and that the plan must include the promotion of the successful long-term economic development of the state with increased emphasis on market research and information to local economic development entities and generation of foreign direct investment in Florida.

EFI's statutory responsibilities for generating private-sector contributions to the organization are also amended by the bill. The measure substantially rewords s. 288.90151, F.S., to specify that the state's operating investment in EFI is the budget contracted by the Office of Tourism, Trade, and Economic Development to EFI, less amounts directed by the Legislature to be subcontracted to a specific recipient. Each fiscal year, the state's operating investment in EFI must be matched 100 percent by private-sector cash and in-kind support, including at least \$1 million in cash given directly to EFI for its operating budget and an additional \$400,000 in cash that may include funds jointly raised with local economic development organizations and funds generated by products or services of EFI.

Office of Tourism, Trade, and Economic Development

The bill authorizes the Office of Tourism, Trade, and Economic Development (OTTED) to contract out for the administration of programs under its jurisdiction, using interest earned from the investment of program funds deposited in the Economic Development Trust Fund, the Grants and Donations Trust Fund, the Brownfield Property Ownership Clearance Assistance Revolving Loan Trust Fund, and the Economic Development Transportation Trust Fund. A number of conforming revisions are made to the statute governing OTTED, s. 14.2015, F.S., to reflect other programmatic changes made by the bill, such as the creation of the Office of the Film Commissioner and the consolidation of Florida's professional and amateur sports promotion programs. (See, e.g., ***Entertainment Industry Promotion*** and ***Amateur and Professional Sports***)

Promotion sections below.) The bill also eliminates a requirement that OTTED report to the Legislature on the status of contracts with public-private partnerships, and reduces the required number of economic summit meetings to at least one per year.

Economic Development Initiatives

Certified Capital Company Act: The bill expands the definition of the term “transferee” for purposes of allocating unused premium tax credits under the Certified Capital Company (CAPCO) Act. The revised definition enables such credits to be utilized by a subsidiary of the certified investor; by an entity 10 percent or more of whose outstanding voting shares are owned by the certified investor; or by a person who directly or indirectly controls, is controlled by, or is under the common control with the certified investor. The bill also specifies that the amount of tax credits vested under the CAPCO Act shall not be considered in rate-making proceedings involving a certified investor. The primary purpose of the CAPCO program, as stated in s. 288.99, F.S., is expanded to include increasing access to capital by minority-owned businesses and businesses located in Front Porch communities, enterprise zones, certain distressed urban and rural areas, and historic districts. In addition, the Black Business Investment Board is specifically identified in the bill as an “early stage technology business” and as a “qualified business” for the purpose of receiving investments by CAPCOs.

Black Business Investment Board: The mission underlying the board is expanded to include taking measures to increase access of black businesses to both debt and equity capital. In addition, the board’s powers are expanded to include promoting black ownership of financial institutions and taking, holding, and improving real property.

Qualified Target Industry (QTI) Tax Refund Program: The bill revises the QTI Program to reduce the requirements and restrictions on the use of tax rebates, and to establish a statutory cap on the state share of refunds of \$24 million for fiscal year 1999-2000 and \$30 million for future fiscal years. The measure also authorizes OTTED to approve for tax refund an expansion of an existing business in a rural community or an enterprise zone that results in a net increase in employment of less than 10 percent. The term “rural community” is defined for purposes of the QTI program as a county with a population of 75,000 or less, a county with a population of 100,000 or less that is contiguous to a county with a population of 75,000 or less, or a municipality within either of such counties.

Qualified Defense Contractors (QDC) Tax Refund Program: The bill abrogates the scheduled 1999 expiration of the QDC Program by extending the program until June 30, 2004. The measure also corrects agency references relating to administration of the program to reflect the dissolution of the Department of Commerce and the assumption of program administration by OTTED.

Capital Investment Tax Credit: Section 220.191, F.S., relating to the Capital Investment Tax Credit, is amended to provide that credits under the program may be granted against premium tax liability. The bill also specifies that an insurance company claiming premium tax credits under the program will not be subject to additional retaliatory tax under s. 624.5091, F.S.

Urban High-Crime Area and Rural Job Tax Credit Programs: The bill specifies that call centers and similar customer service operations are eligible businesses under the two job tax credit programs under ss. 212.097 and 212.098, F.S., and authorizes specified retail businesses to be eligible under the urban high-crime program. In addition, OTTED is authorized to recommend to the Legislature additions to or deletions from the list of standard industrial classifications used to determine an eligible business for purposes of both programs.

Enterprise Zone Pilot Project: The bill creates s. 290.0069, F.S., to direct OTTED to designate a pilot project within one enterprise zone. Eligibility criteria are specified for the pilot project/enterprise zone, including, among others, that the pilot project area contains a diverse cluster or grouping of facilities or space for a mix of retail, restaurant, or service related industries. Beginning December 1, 1999, no more than four businesses in the project area may claim a credit for taxes due under chs. 212 and 220, F.S. Credits must be computed as \$5,000 times the number of full-time employees of the business and \$2,500 times the number of part-time employees of the business, and the total amount of credits that may be granted under this section annually is \$1 million. This section further provides for prorated credit amounts in the event of excess demand. This section specifies eligibility requirements for businesses, including, among others, that the business has entered into a contract with a developer of a diverse cluster or grouping of facilities or space located in the pilot area, governing lease of commercial space in a facility. This section stands repealed on June 30, 2010.

Quick Action Closing Fund: This bill creates a Quick Action Closing Fund within OTTED for the stated purpose of helping the state to compete for high-impact business facilities. Under the program, the Governor must consult with the President of the Senate and the Speaker of the House of Representatives, prior to giving final approval for a project to receive funding. Once a project is approved, OTTED and the business must enter into a contract governing the conditions for payment of moneys from the fund. The bill further requires Enterprise Florida, Inc., to validate contractor performance.

Military Base Retention: This bill designates the Florida Defense Alliance within Enterprise Florida, Inc. (EFI), as responsible for ensuring the competitiveness of Florida's military bases and base communities and for advising EFI on defense-related activity. In addition, the measure appropriates \$2 million for the purpose of assisting

military installations with improvements to or upgrades of infrastructure as part of the state's effort to retain such facilities.

Economic Development Property Tax Exemptions: This bill amends ss. 196.012 and 196.1995, F.S., to allow a business sited on property that is annexed into a municipality to continue receiving the ad valorem tax exemption that had been provided by the county.

Rural Economic Development

The bill contains a number of provisions designed to encourage economic development in Florida's rural communities. Specifically, the bill:

- Provides that job creation and economic development shall be considered as factors in future land use plans and in designation of industrial use, notwithstanding existing population or low-density population.
- Provides that regional planning councils shall have a duty to assist local governments with economic development activities, and authorizes regional planning councils to use their personnel, consultants, or other assistants to help local governments with economic development activities.
- Codifies the Rural Economic Development Initiative (REDI) within OTTED and provides its duties and responsibilities -- including coordinating and focusing the efforts and resources of state and regional agencies on the problems which affect the fiscal, economic, and community viability of Florida's economically distressed rural communities.
- Authorizes the Governor, based upon recommendations from REDI, to designate up to three rural areas of critical economic concern, and to waive economic development incentive criteria for such communities.
- Increases the maximum grant amount under the Regional Rural Development Grant Program to \$35,000, or \$100,000 in a rural area of critical economic concern.
- Authorizes OTTED to allow a rural area of critical economic concern to retain repayments of principal and interest under the Rural Community Development Revolving Loan Fund if certain conditions are met.
- Creates the Rural Infrastructure Fund within OTTED, under which grants are authorized for infrastructure in support of specific economic development projects, including storm water systems, electrical, telecommunications, natural gas, roads, and nature based tourism facilities.

- Authorizes the provision of grants to rural communities to develop and implement strategic economic development plans.
- Directs the Florida Fish and Wildlife Conservation Commission to provide assistance, including marketing and product development, related to nature-based recreation for rural communities.
- Allows a rural electric cooperative to provide any energy or nonenergy service to its membership.
- Authorizes the Governor to waive the eligibility criteria of any program or activity administered by OTTED or EFI, to provide economic relief to a small community that has been determined to be in an economic emergency.
- Amends s. 378.601, F.S., to expand the circumstances under which a heavy mineral mining operation that annually mines less than 500 acres and whose proposed consumption of water is 3 million gallons of water per day or less may not be required to undergo a development of regional impact (DRI) review. The bill broadens the scope of this DRI exemption to include certain cases in which the operator has received a development order under s. 380.06(15), F.S.

Urban Economic Development

To assist in administration of the Front Porch Florida initiative, the Office of Urban Opportunity is created within the Office of Tourism, Trade, and Economic Development. The bill provides that the director of the urban office shall be appointed by and serve at the pleasure of the Governor. The measure also provides for the creation of an Institute on Urban Policy and Commerce as a Type I institute under the Board of Regents at Florida Agricultural and Mechanical University, the stated purpose of which is to improve the quality of life in urban communities through research, teaching, and outreach activities.

Entertainment Industry Promotion

The bill creates the Office of the Film Commissioner, a centralized, state level office established within the Office of Tourism, Trade, and Economic Development (OTTED) to develop and promote the state's entertainment industry. The term "entertainment industry" is broadly defined to include persons or entities engaged in the operation of motion picture or television studios, or recording studios, as well as members of the broadcast industry. The Office of the Film Commissioner is directed, among other things, to develop and implement a five-year strategic plan, develop a methodology for working with local entertainment industry promotion offices in providing service to the industry, serve as a liaison between government and the entertainment industry, and serve as a liaison between the entertainment industry and labor interests.

The bill creates the Florida Film Advisory Council (council), administratively housed within OTTED. The council will provide industry direction on promoting the growth of

the entertainment industry in the state. The Governor, the President of the Senate, and the Speaker of the House of Representatives are to make appointments under criteria prescribed within the bill. The Film Commissioner, and representatives of the Florida Tourism Industry Marketing Corporation and Enterprise Florida, Inc., will serve as ex-officio, non-voting members of the council. The council's duties and powers are delineated, including, but not limited to, advising on development of a five-year strategic plan by the office to develop, promote, and serve the state's entertainment industry and reviewing and advising on the implementation of the plan. The bill repeals various provisions of ch. 288, F.S., relating to the Florida Film and Television Investment Act and the Florida Film and Television Investment Board.

Digital Broadcasting

The bill provides for the formation of a 12-member task force to be called the "21st Century Digital Television and Education Task Force." The task force, to be established within OTTED, is directed to: devise a plan to recruit digital industries to locate in Florida; recommend economic incentives to assist in the recruitment of certain digital industries to Florida; devise a plan to create and maintain higher education opportunities for students interested in the digital television field; recommend methods to hasten the conversion of existing commercial television studios and sound stages from analog to digital technology; investigate means of assisting public broadcast stations in their conversion from analog to digital technology; and issue a report to the Legislature prior to February 1, 2000.

Amateur and Professional Sports Promotion

The bill authorizes the direct-support organization, known as the "Florida Sports Foundation, Inc." (foundation), to absorb many of the duties currently assigned to the Governor's Council on Physical Fitness and Amateur Sports (council). These activities include the promotion of physical fitness and amateur sports for the citizens of Florida, the promotion of Florida as a host for national and international amateur sports competitions, and the administration of the Sunshine State Games. The bill repeals s. 14.22, F.S., which established the council. Additionally, the bill transfers from the council to the foundation the administration of the funds collected from the sale of Olympic license plates under s. 320.08058, F.S., 1998 Supp. The bill also provides for the transfer of all funds and property held by the council and the Sunshine State Games Foundation, Inc., to the foundation and requires that such resources will be used to promote amateur sports.

The promotion and development of Olympic development centers is dissolved and a broader charge is provided in the bill for programs to encourage participation of Florida's youth in Olympic sports and competitions. The 17-member Florida Olympics

and Pan American Games Task Force is dissolved and replaced by provisions in the bill requiring the foundation to assist and support Florida bid-cities or communities seeking to host the Summer Olympics or Pan American Games and to annually report to the Governor, the President of the Senate, and the Speaker of the House of Representatives on the status of the bid-city efforts.

Tourism Promotion

The bill provides technical and conforming changes as to the duties, responsibilities, and membership of the Florida Commission on Tourism and the Florida Tourism Industry Marketing Corporation (Visit Florida), including provisions regarding the staffing of the Commission on Tourism by Visit Florida, and authority for the executive director of the Florida Commission on Tourism. The bill clarifies those contributions which are to be allowed in the required private portion of the one-to-one match of private to public contributions for tourism promotion, and corrects a technical error in the statutory definition of a tourist. The bill provides for the establishment of a standing, statewide advisory committee to assist the Florida Commission on Tourism with the implementation of a plan to protect and promote all of the natural, coastal, historical, and cultural tourism assets of this state. The bill requires the Florida Commission on Tourism to incorporate nature-based tourism and heritage tourism components into its comprehensive state marketing plan, and specifies that the plan must include provisions to specifically address the promotion and development of nature-based tourism and heritage tourism in rural communities.

The bill also transfers administrative and fiscal responsibilities for the Welcome Center Office's from the Department of Transportation to the Commission on Tourism and Visit Florida.

International Business & Related Provisions

International Volunteer Corps: The statutory authority under s. 288.0251, F.S., to contract for implementation of a volunteer corps to provide short-term training and technical assistance activities in Latin America and the Caribbean is transferred from the Office of Tourism, Trade, and Economic Development to the Department of State.

Florida Trade Data Center (FTDC): This bill amends s. 288.8155, F.S., substantially revising the existing statute governing the International Trade Data Resource and Research Center (Florida Trade Data Center). Under the measure, the FTDC is to be established as a private, non-profit corporation and not a unit or entity of state government. The bill also requires the FTDC to make information available to the Office of Tourism, Trade, and Economic Development (OTTED), Enterprise Florida, Inc., and state agencies pursuant to a policy by the center's board of directors. Finally, the bill authorizes certain activities, such as developing a state-wide trade information system

and an Internet based electronic commerce system designed to facilitate international trade in the Americas.

Notaries: The bill revises s. 117.103, F.S., regarding the process for certification of a notary public's commission. The bill also amends ss. 15.16 and 118.10, F.S., clarifying the responsibilities and authority of civil law notaries and the Department of State's regulatory powers with regard to civil law notaries, including the processes for issuance of apostilles and notarial certificates.

Foreign Money Judgments: The bill amends s. 55.604, F.S., to include the Department of State with those entities where foreign judgments are required to be filed and amends s. 55.605(2)(g), F.S., to require the Secretary of State to establish and maintain a list of foreign jurisdictions where judgments rendered in Florida would not be given similar recognition with judgments rendered in the other jurisdiction.

Florida State International Archive and Repository: The bill creates s. 257.34, F.S., establishing the Florida State International Archive and Repository within the Division of Library and Information Services (division) of the Department of State (department) for the purpose of preserving those public records, manuscripts, international judgments involving disputes between domestic and foreign businesses, and all other public matters the department or the Florida Council of International Relations deems relevant to international issues. The Florida Council of International Development may select materials for inclusion in the archive and must be consulted by the division in all matters relating to its establishment and maintenance.

International and Cultural Relations: The Secretary of State is directed to coordinate international activities with Enterprise Florida, Inc., and any other organization the Secretary deems appropriate.

Foreign Offices: The bill amends s. 288.012, F.S., to require each foreign office to submit to OTTED, by October 1 of each year, a complete and detailed report on its activities and accomplishments during the preceding fiscal year. The information provided in the report shall include, but not be limited to, the number of Florida companies assisted; the number of inquiries received about investment opportunities in Florida; the number of trade leads generated; the number of investment projects announced; and the estimated U.S. dollar value of sales confirmations. The bill mandates a legislative review of the foreign offices by December 31, 2001, to determine the effectiveness of Florida's foreign offices. The bill also specifies that this section governing foreign offices will not be repealed and is reenacted.

Foreign Direct Investment: The bill requires Enterprise Florida, Inc. (EFI), in conjunction with OTTED, to prepare a plan for promoting direct investment in Florida by

foreign businesses. The plan must assess and inventory Florida's strengths as a location for foreign direct investment and must include a detailed strategy for capitalizing upon those strengths. In developing the plan, EFI must focus on businesses with site-selection criteria that are consistent with Florida's business climate, businesses likely to facilitate the transshipment of goods through Florida or to export Florida-produced goods from the state, and businesses that complement or correspond to those industries identified as part of the sector-strategy approach to economic development required under s. 288.905, F.S. Additionally, the plan must identify weaknesses in Florida's ability to attract foreign direct investment and must include a detailed strategy for addressing those weaknesses. The plan may include recommendations for legislative action designed to enhance Florida's ability to attract foreign direct investment. EFI must solicit the participation and input of entities with expertise and experience in foreign direct investment in the development of the plan. The plan, which EFI may include within the annual update or modification to the strategic plan required under s. 288.905, F.S., must be submitted to the Governor and the Legislature prior to January 1, 2000.

International Trade and Reverse Investment Resources: The bill provides that EFI shall develop a master plan for integrating public-sector and private-sector international trade and reverse investment resources to provide businesses with comprehensive assistance and the most current information. The plan must include resources such as trade leads, reverse investment opportunities, trade counseling, and trade financing services. EFI is directed to consult with the appropriate experts and consumers while researching for this project. The master plan must be submitted to the Governor and the Legislature prior to January 1, 2000.

Cuba: The bill requires EFI to prepare a strategic plan designed to allow Florida to capitalize on the economic opportunities associated with a free Cuba. The plan should recognize the historical and cultural ties between this state and Cuba and should focus on building a long-term economic relationship between these communities. The plan may include recommendations for legislative action necessary to implement the strategic plan. The strategic plan must be submitted to the Governor and the Legislature prior to January 1, 2000.

Appropriation: The bill provides for \$224,750 originally assigned to the Florida First Capital Finance Corporation to be reassigned to the Florida-Korea Economic Cooperation Committee and the San Carlos Institute of Key West.

Ports Infrastructure Development & Other Activities

The bill enacts a number of revisions to statutes affecting activities at seaports in the state. With respect to ports infrastructure development, the bill amends s. 163.3178, F.S., relating to coastal management, to provide that ports which are part of the Florida

Seaport Transportation and Economic Development (FSTED) Council and which have spoil disposal responsibilities must identify disposal sites for dredged materials. For areas owned or controlled by these ports, compliance with this requirement shall be achieved through the ports' comprehensive master plans. Such plans must be integrated with local comprehensive plans through existing processes. The bill also amends s. 163.3187, F.S., to create an exception to the prohibition against amending comprehensive plans more than two times per calendar year in the case of amendments for port transportation facilities and projects eligible for funding by the FSTED Council.

When engaged in activities authorized by water resources or environmental control permits or exemptions, ports listed in s. 403.021(9)(b), F.S., as well as the Florida Inland Navigation District and the West Coast Inland Navigation District, are not required to pay any fees for activities involving the use of sovereign lands. Ports covered by this provision include the ports of Jacksonville, Tampa, Port Everglades, Miami, Port Canaveral, Ft. Pierce, Palm Beach, Port Manatee, Port St. Joe, Panama City, St. Petersburg, Pensacola, Fernandina, and Key West. The bill also exempts specified expansion activities at these ports from, as well as other port development, transportation, and intermodal transportation activities, from the Development of Regional Impact (DRI) requirements, provided that such expansion or other activities are consistent with the required comprehensive master plans.

With respect to port planning, the bill creates s. 311.14, F.S., to direct the FSTED Council, in cooperation with the Office of the State Public Transportation Administrator, to develop freight-mobility and trade-corridor plans to assist in making freight-mobility investments that contribute to the state's economic growth. The bill directs the Office of the State Public Transportation Administrator to integrate freight-mobility and trade-corridor plans into the Florida Transportation Plan and into the plans of metropolitan planning organizations.

The bill also revises the definition of "port facilities," under s. 315.102, F.S., to include certain facilities used to warehouse, store, and distribute cargo transported or to be transported through an airport or port facility.

Workforce Development

This bill provides specifications for Florida's implementation of the federal Workforce Investment Act of 1998 (WIA), consolidates Florida statutes regarding workforce development in a distinct part of the statutes, and reauthorizes language from the Workforce Florida Act of 1996 inadvertently omitted from current law.

One-Stop Career Centers: One-Stop Career Centers are established in the bill as the state's customer service delivery mechanism. Required one-stop partners, in addition to those mandatory partners specified in the WIA, include food stamp and WAGES/TANF programs. The partners are prohibited from operating independently of the one-stops without approval of regional workforce development boards (RWDBs), and services provided by partners which are not physically located in a one-stop must be approved by the RWDB. Memorandums of understanding must be executed between the RWDB and one-stop partners, and one partner's failure to participate may not block the participation of others.

RWDBs are directed to provide oversight to local one-stops and designate one-stop operators. These boards may retain current one-stop operators without further procurement action where the board has established a one-stop that complies with state and federal law.

Intensive services and training must be provided through Intensive Service Accounts and Individual Training Accounts (ITAs). The WDB must develop an implementation plan, including identification of initially eligible training providers, transition guidelines, and criteria for use of these accounts. ITAs must be performance-based, and expended on programs for high-wage, high-demand occupations. RWDBs, in consultation with training providers, must establish a fair market purchase price for each training program to be paid through an ITA. The WDB must review pricing schedules and recommend process improvement changes to the Legislature.

Workforce Development Board and Regional Workforce Development Boards:

The bill designates the WDB as the state's Workforce Investment Board, and the RWDBs as the local workforce investment boards pursuant to the WIA. The membership composition of the boards must be in compliance with the WIA, and the WDB is directed to provide a transition plan to incorporate the membership composition changes required by the bill.

Implementation of the federal Workforce Investment Act of 1998: The WDB is required by the bill to prepare a five-year plan (to include secondary vocational education) for early implementation of the WIA. Mandatory and optional federal partners must be involved in development of the plan and optional partners choosing to be included in the plan will satisfy all state planning and reporting requirements as they relate to one-stops. The plan must detail a process that would fully integrate all federally mandated and optional partners in the second year of the plan.

The WDB must contract with an administrative entity for the disbursement of WIA funds, including Rapid Response funds, to the RWDBs. Unless a RWDB obtains a waiver, at least 50 percent of pass through Adult/Dislocated WIA Title I funds must be used for ITAs. Tuition, fees, performance-based incentive awards, as well as other

programs, qualify as an ITA expenditure. Ten percent of the WIA youth funds allocated to RWDBs must be used as performance payments for public schools' dropout prevention programs.

The bill creates the Incumbent Worker Training Program, administered by a private entity, to provide grant funding for continuing education and training of incumbent employees. Five percent of the 15 percent of the WIA funds retained at the state level is dedicated to this program.

Department of Labor and Employment Security: The bill provides that the Department of Labor and Employment Security (department) may offer a one-time voluntary reduction-in-force payment to active employees of the department with 30 or more years in a state-administered retirement fund or to persons at least age 62 and eligible for retirement, during 1999-2000 fiscal year.

Community Assistance Programs

Local Government Financial Technical Assistance Program: The program is created in s. 163.055, F.S., for the stated purpose of providing technical assistance to municipalities and special districts to enable them to implement workable solutions to financially related problems. Under the program, the Comptroller is directed to enter into contracts with providers who shall, among other requirements, assist municipalities and independent special districts in developing alternative revenue sources, and assist them in the areas of financial management, accounting, investing, budgeting, and debt issuance.

Florida Interlocal Cooperation Act: The bill amends s. 163.01, F.S., to specify that a local self-insurance fund established under this section may financially guarantee certain bonds or bond anticipation notes issued or loans made under the statute.

Small School District Stabilization Program: The program is created to provide technical and financial assistance to maintain the stability of the educational program in the school district in rural communities that document economic conditions or other significant influences that negatively impact the district. As part of the program, the Office of Tourism, Trade, and Economic Development may consult with Enterprise Florida, Inc., on development of a plan to assist the county with its economic transition. The bill authorizes grants to the school districts, effective July 1, 2000, which may be equivalent to the amount of the decline in project revenues.

Discretionary Per-Vehicle Surcharge: Section 218.503, F.S., is amended to provide that the governing authority of any municipality with a resident population of 300,000 or more, and which has been declared to be in a state of emergency within a specified

period, may impose a discretionary per-vehicle surcharge of up to 20 percent on the gross revenues of the sale, lease, or rental of space at public parking facilities within the municipality.

Professional Regulation

The bill contains several provisions relating to regulation of professions and occupations.

Continuing Education: The bill requires that by the year 2002, the Department of Business and Professional Regulation (DBPR) must monitor 100 percent of professional licensees for compliance with continuing education requirements or privatize that activity. It authorizes administrative fines and provides that a license will not be renewed until all fines are paid and all conditions of a final order are met. The bill also authorizes use of distance learning to satisfy continuing education requirements and provides that DBPR or a board may waive or prorate continuing education requirements.

Restrictions on Employment Opportunities: The bill requires the Legislature, as part of the “sunrise” process, to evaluate new proposals for regulation of professions or occupations to determine the impact on employment opportunities. It also prohibits DBPR and the Department of Health from creating regulations that unreasonably restrict ability to seek or find employment.

Legal Representation: The bill deletes requirements that the Department of Legal Affairs provide counsel to certain professional boards, providing instead that DBPR use its own attorneys, hire private attorneys, or contract with the Department of Legal Affairs.

Minor Violations: The bill provides that certain minor violations will be classified as inactive if 2 years have elapsed since the issuance of the final order imposing discipline and the licensee has not been disciplined for any subsequent minor violation of the same nature.

Cosmetology: The bill defines “skin care services” in the practice act for cosmetology distinctly from the definition of massage in s. 480.033(3), F.S. It also defines “body wrapping” to mean, for the purposes of the cosmetology practice act, treatments using herbal wraps for weight loss and for the purpose of cleansing and beautifying the skin, not including application of oils or lotions or manipulation of the body’s superficial tissue. A person who conducts body wrapping must register with the department, pay a registration fee not to exceed \$25, and participate in a two-day, 12-hour training that includes a HIV/AIDS course approved by DBPR.

State Athletic Commission/Boxing: The bill includes provisions designed to ensure greater accountability by the State Athletic Commission (commission). It provides that the Governor may have a commissioner investigated and may remove a commissioner for specified grounds. The commission's executive officer is to be employed by DBPR, with the approval of the commission. The Department of Business and Professional Regulation is to assist the commission in budget development and is to submit an annual balanced legislative budget based on anticipated revenue. Additionally, the bill requires that the DBPR provide all necessary legal and investigative services to the commission, deletes authority for branch commission offices, increases the amount of the bond that a foreign copromoter must file from \$3,000 to \$15,000, and deletes a \$10 filing fee on the filing of each bond.

Certified Public Accountants: These provisions authorize certified public accountants (CPA) to provide advisory services relating to insurance while acting within their scope of accounting practice. They limit the CPAs' activities to advising clients as to the need for obtaining insurance, the amount of insurance, and the type of insurance needed. A CPA is prohibited from receiving any form of insurance commission or fee for these services.

If approved by the Governor, these provisions take effect July 1, 1999.

Vote: Senate 37-0; House 119-0

TRANSPORTATION COMMITTEE

1999 End-of-Session Summary

Bills that Passed Both Houses

HB 47--Sales Tax Exemption/Truck Stop

by Fuller & Others (SB 142 by Holzendorf & SB 862 by Fiscal Resource)

House Committee(s) of Reference: Transportation; Finance & Taxation; General Appropriations

This bill provides an exemption from sales tax on the renting or leasing of travel center/truck stop facilities. The bill defines "travel center/truck stop facility" as any facility that has declared its primary business activity as the sale of diesel fuel at retail, and which operates a minimum of 6 diesel fuel dispensers.

The bill has a negative fiscal impact to General Revenue of \$.4 million annually. There will also be an insignificant negative impact to the state solid waste management trust fund and the local government half-cent and local option sales tax trust funds.

The effective date of the bill is July 1, 1999.

HB 55--Fuel Tax Refund/Motor Coach Idle Time

by Fuller (passed as CS/SB 1846 by Fiscal Resource & Sebesta)

House Committee(s) of Reference: Transportation; Finance & Taxation; Transportation & Economic Development Appropriations

This bill provides motor coach owners with a diesel fuel tax refund on fuel consumed by a motor coach when the engine is idling to run climate control and electrical systems. The refund to motor coach operators will be 35 percent of fuel taxes paid, and is only applicable to buses that weigh 33,000 pounds or more. State sales tax is due on motor coach fuel that is subject to refund of fuel tax.

The bill is estimated to have a negative fiscal impact to state and local revenues of \$1.2 million on an annualized basis.

The effective date of the bill is January 1, 2000.

CS/HB 75--Road & Bridge Designations by Transportation; Fasano & Others (passed as CS/SB 82 by Transportation; Brown-Waite & Others)

House Committee(s) of Reference: Transportation; Transportation & Economic
Development Appropriations

The bill designates the following transportation facilities:

- ▶ That portion of State Road 54 in Pasco County, currently designated as the “Purple Heart Highway,” 1 mile east and 1 mile west of the intersection of State Road 54 and I-75 as the “State Trooper James Crooks Memorial Highway.”
- ▶ The Florida Highway Patrol substation on State Road 52 in Land O’ Lakes as the “State Trooper James Crooks Substation.”
- ▶ That portion of Highway 20 lying west of the Apalachicola River Bridge in Calhoun County to the Bay County Line on the west as the “Fuller Warren Parkway.”
- ▶ Southwest 87th Avenue from Coral Way to Bird Road in Miami-Dade County as the “Saint Marcellin Champagnat Way.”
- ▶ That portion of U.S. Highway 98 in Franklin County between the Tillie Miller Bridge in Carrabelle and the Ochlockonee Bay Bridge as the “Camp Gordon Johnston Memorial Highway.”
- ▶ The bridge crossing the Intracoastal Waterway on State Road A1A/Southeast 17th Street in Fort Lauderdale as the “E Clay Shaw, Jr., Bridge.”
- ▶ That portion of State Road A1A/Southeast 17th Street Fort Lauderdale between Southeast 23rd Avenue and Eisenhower Boulevard as the “Commodore Brook Memorial Causeway.”
- ▶ That portion of U.S. Highway 90 in Jefferson and Leon Counties between Tallahassee and Monticello as part of the “Florida Arts Trail.”
- ▶ State Road 9 from NW 58th Street to County Line Road as the “Carrie P. Meek Boulevard.”
- ▶ The Destin Bridge at East Pass as the “William T. Marler Bridge.”
- ▶ U.S. Highway 27 within the State of Florida as the “Claude Pepper Memorial Highway.”
- ▶ That portion of Biscayne Boulevard in Miami between Northeast 6th Street and Northeast 16th Street as the “Jorge Mas Canosa Boulevard.”
- ▶ That portion of Southwest 1st Street in Dade County between 16th Avenue and 17th Avenue as the “Armando Perez ‘Yambo’ Boulevard.”
- ▶ The Palm Beach Turnpike Plaza as “Charles B. Costar, Sr., Turnpike Plaza.”
- ▶ That portion of State Road 710 in Palm Beach County between State Road 809 and State Road 706 as the “Moroso Memorial Highway.”

- ▶ That portion of Southwest 8th Street in Miami between Southwest 67th Avenue and Southwest 70th Avenue as “Dr. Armando Bucelo, Sr., Way.”
- ▶ That portion of State Road 869 between State Road 816 and State Road 870 as the “Trooper Donald Earl Jennings Highway.”
- ▶ The new bridge over Bayou Chico on State Road 292 in Pensacola as the “Bayou Chico Bridge.”
- ▶ That portion of State Road 972 in Miami between Southwest 17th Avenue and Southwest 13th Avenue as “Senator Ruben Mendiola Way.”
- ▶ That portion of State Road 5 in the Village of Pinecrest as the “Pinecrest Parkway.”
- ▶ That portion of Coral Way between 12th Avenue and 22nd Avenue as “Angel Pio de la Portilla Way.”

The Department of Transportation is directed to erect suitable markers for the transportation facility designations. The Department of Highway Safety and Motor Vehicle is directed to erect suitable markers for the Highway Patrol substation designation.

Effective Date: Upon becoming law.

HB 127--US Marine Corps License Plate by Crady & Others (SB 282 by Sullivan)

House Committee(s) of Reference: Transportation; Finance & Taxation

The bill requires the Department of Highway Safety and Motor Vehicles to issue a “United States Marine Corps” license plate. In addition to the usual specialty license plate fees, a \$15 annual use fee will be charged for this new specialty license plate.

Annual use fees for the license plate are to be distributed as follows:

- The first \$50,000 collected annually will be deposited in the State Homes for Veterans Trust Fund and used solely for the purpose of constructing, operating, and maintaining domiciliary and nursing homes for veterans subject to the requirements of chapter 216, F.S.
- Any additional fees collected annually are to be deposited in the Marine Corps Scholarship Foundation, Inc., successor to the USMV Tag/Scholarship Fund, Inc., which must use the fees to fund scholarships and assist Marine Corps Junior ROTC programs.

The effective date of the bill is July 1, 1999.

HB 267--Purple Heart License Plate by Fiorentino & Others (SB 1018 by Latvala)

House Committee(s) of Reference: Transportation; Community Affairs

The bill authorizes the Department of Highway Safety and Motor Vehicles to issue the Purple Heart license plate to an unremarried surviving spouse of a Purple Heart medal recipient.

The bill is effective on becoming a law.

CS/HB 311 & 243--DOT & Public Authorities/Law Suits by Judiciary; Fuller; Governmental Operations; Trovillion & Others (CS/SB 240 by Fiscal Policy, Sebesta & others; SB 810 by Lee)

House Committee(s) of Reference: Transportation; Judiciary; Transportation & Economic Development Appropriations

The bill specifies conditions under which suits may be brought by and against the Department of Transportation (DOT) and other public authorities on contract claims based on breach of an express provision or an implied covenant of a written agreement or directive. Both the government and the contractor would have the same rights, remedies and defenses as a private person in such suits, except that liability could not be based on oral modifications of the contract. The bill specifically provides that the sovereign immunity of the state and its political subdivisions is not waived from equitable claims and equitable remedies.

The bill further provides that claims between DOT and contractors of up to \$1 million may be heard and resolved by the State Arbitration Board. Currently claims over \$250,000 must go to court. The bill also repeals a provision authorizing DOT to establish an Owner Controlled Insurance Program (OCIP). An OCIP provides insurance coverage for DOT and for worker's compensation and employers liability, and general liability and builders risk for contractors and subcontractors in conjunction with all work performed on a DOT project.

Effective Date: Upon becoming a law except as otherwise provided.

HB 411--Lawton Chiles Trail

by L. Miller & Others (passed as CS/SB 892 by Transportation, Dyer & Others)

House Committee(s) of Reference: Transportation; Community Affairs;
Transportation & Economic Development Appropriations

This bill designates the following roadways and portions of roadways as the "Lawton Chiles Trail":

Century to Tallahassee, consisting of;

- ▶ That portion of Highway 4 between the intersection at Highway 29 and the intersection at Highway 90.
- ▶ That portion of Highway 90 between the intersection at Highway 4 and Tallahassee.

Tallahassee to Monticello, consisting of;

- ▶ That portion of Highway 90 between Tallahassee and Monticello.

Monticello to Live Oak, consisting of;

- ▶ That portion of Highway 90 between Monticello and Live Oak.

Live Oak to Lake Butler, consisting of;

- ▶ That portion of Highway 90 between Live Oak and Lake City.
- ▶ That portion of Highway 100 between Lake City and Lake Butler.

Lake Butler to Ocala, consisting of;

- ▶ That portion of Highway 100 between Lake Butler and Starke.
- ▶ That portion of Highway 301 between Starke and Waldo.
- ▶ That portion of Highway 24 between Waldo and Gainesville.
- ▶ That portion of Highway 441 between Gainesville and Ocala.

Ocala to Sanford, consisting of;

- ▶ That portion of Highway 40 between Ocala and Barberville.
- ▶ That portion of Highway 17 between Barberville and DeLand.
- ▶ That portion of Highway 92 between DeLand and Daytona Beach.
- ▶ That portion of Highway U.S. 1 between Daytona Beach and New Smyrna Beach.
- ▶ That portion of Highway 44 between New Smyrna Beach and Samsula.
- ▶ That portion of Highway 415 between Samsula and Sanford.

Sanford to Orlando, consisting of;

- ▶ That portion of Highways 17 and 92 between Sanford and Orlando.

Orlando to St. Petersburg, consisting of;

- ▶ That portion of Highways 17 and 92 between Orlando and Tampa.
- ▶ The Gandy Bridge into St. Petersburg.

St. Petersburg to Fort Myers, consisting of;

- ▶ That portion of Highway 618 between the Gandy Bridge and the intersection at Highway 41.
- ▶ That portion of Highway 41 between the intersection at Highway 618 and the intersection at Highway 776.
- ▶ That portion of Highway 776 between the intersection at Highway 41 and Englewood.
- ▶ That portion of Highway 776 between Englewood and Fort Myers.

Fort Myers to West Palm Beach, consisting of;

- ▶ That portion of Highway 80 between Fort Myers and the intersection at Highway 27.
- ▶ That portion of Highway 27 between the intersection at Highway 80 and Belle Glade.
- ▶ That portion of County Road 880 between Belle Glade and Highway 98.
- ▶ That portion of Highway 98 between the intersection at County Road 880 and the intersection at Highway 80.
- ▶ That portion of Highway 80 between the intersection at Highway 98 and the intersection at Highway U.S. 1.

West Palm Beach to Key Largo, consisting of ;

- ▶ That portion of Highway U.S. 1 between West Palm Beach and Key Largo, including that portion of Highway 838 that connects sections of Highway U.S. 1 in Fort Lauderdale.

The department is directed to erect suitable markers for the “Lawton Chiles Trail” and is authorized to erect markers detailing Governor Lawton Chiles’ walk, commitment to children and service to the State of Florida.

Effective Date: Upon becoming law.

HB 509--Choose Life License Plate by Kilmer & Others (SB 1526 by Sebesta)

House Committee(s) of Reference: Transportation; Finance & Tax; Transportation & Economic Development Appropriations

The bill requires the Department of Highway Safety and Motor Vehicles to issue a "Choose Life" license plate. In addition to the usual specialty license plate fees, a \$20 annual use fee will be charged for this new specialty license plate.

Annual use fee proceeds from the Choose Life plate are distributed annually to each county based on the ratio of annual use fees collected in each county to the total fees collected for the plate statewide. The bill requires counties to distribute the funds to nongovernmental, not-for-profit agencies which provide services limited to counseling and meeting the physical needs of pregnant women who are committed to placing their children for adoption.

The effective date of the bill is July 1, 1999.

HB 589--Vessel Registration by Transportation; K. Smith (SB 1312 by Webster)

House Committee(s) of Reference: Community Affairs; Transportation & Economic Development Appropriations

Vessel registration and safety laws are contained in chapter 327, F.S., and are administered by both the Department of Environmental Protection (DEP) and DHS&MV. DEP is responsible for vessel safety and DHS&MV is responsible for vessel registration.

The bill transfers vessel registration statutes from chapter 327, F.S. to chapter 328, F.S. (vessel titles). This would place DHS&MV's vessel registration and titling responsibilities into the same chapter of the Florida Statutes. Chapter 327, F.S., would continue to be related to vessel safety and be administered by DEP. Reorganizing the statutes will serve to align the statutes according to the missions and responsibilities of DEP and DHS&MV.

The bill is effective on becoming a law.

HB 591--Transportation Department by Transportation; K. Smith (CS/HB 1021 by Spratt & Others; CS/HB 1147 by Transportation & K. Smith; HB 1437 by Sobel; HB 2085 by Henriquez; CS/CS/SB 940 by Fiscal Policy & Comprehensive Planning, Local and Military Affairs; CS/CS/SB 972 by Fiscal Policy,

Transportation & Casas; CS/SB 1314 by Transportation, Webster & Others; SB 2490 by Jones)

House Committee(s) of Reference: Community Affairs; Finance & Tax

This bill includes the Department of Transportation's (DOT) 1999 legislative proposals as contained in CS/HB 1147. The bill addresses a number of transportation infrastructure financing issues and conforms state law to recent changes in federal transportation law, the Transportation Equity Act for the 21st Century (TEA-21). Many of the provisions in the bill are related to department operations and are intended to allow DOT to operate more efficiently. Major provisions in the bill would:

1. Enhance or implement transportation finance programs related to right-of-way and bridge bonds, federal grant anticipation revenue bonds, fixed guideway project bonds, and direct federal loans for railroad rehabilitation and improvement financing.
2. Conform DOT's and MPO's transportation planning process with new federal requirements, including placing more emphasis on freight and intermodal issues in transportation planning and project selection.
3. Improve DOT contract administration process, including increasing the number of construction contract claims that can be resolved by the State Arbitration Board prior to litigation and allowing DOT to contract directly with utility company for right-of-way clearing work necessary for utility relocation.

The bill also incorporated the provisions of CS/HB 1021 related to the Small County Road Assistance Program. The program is created within the Department of Transportation (DOT) to assist small counties (1990 population of 75,000 or less) in resurfacing or reconstructing county roads. From fiscal year 1999-2000 until fiscal year 2009-2010, up to \$25 million from the State Transportation Trust Fund (STTF) may be used annually to fund the program.

The bill further includes the provisions of CS/CS/SB 940 related to eminent domain. The bill creates a presuit negotiation process in eminent domain proceedings which requires providing notice and written offers of compensation, and exchanging of information such as appraisal reports, design plans and business records, between condemning authorities and property and business owners. These provisions are intended to encourage more presuit settlements, and may decrease litigation costs.

Finally, the bill includes the results of the 1997 State Government Function/Activity Review Interim Project by the House Transportation Committee to identify obsolete or

incorrect statutory language relating to transportation issues. These provisions were in HB 591 as originally introduced. As such, the bill removes obsolete language, corrects cross references, and otherwise, makes a number of technical changes to certain existing transportation laws. These changes are accomplished through revising, reenacting, and amending various relevant provisions of existing Florida law.

The bill results in administrative cost-savings and increased departmental efficiencies which are expected to have an overall positive fiscal impact on DOT operating costs. The bonding and other financing provisions in the bill have the potential for significant positive fiscal impacts on DOT's 5-year work program, adding up to \$1.5 billion in transportation infrastructure projects.

Effective Date: July 1, 1999, except as otherwise provided.

HB 601-- Share the Road License Plate by Casey & Others (SB 280 by Sullivan)

House Committee(s) of Reference: Transportation; Finance & Taxation;
Transportation & Economic Development Appropriations

The bill requires the Department of Highway Safety and Motor Vehicles to issue a "Share the Road" license plate. In addition to the usual specialty license plate fees, a \$15 annual use fee will be charged for this new specialty license plate.

Annual use fee proceeds from the Share the Road plate are distributed to the Florida Governor's Council on Physical Fitness and Amateur Sports, a portion of which may be used for marketing and promoting the license plate. The remaining funds are divided equally between Bike Florida, Inc., and the Florida Bicycle Association, Inc., to be used for:

- Education and awareness programs, for bicycle safety and motorist safety, with emphasis on sharing the roadway by all users.
- Training, workshops, educational materials, and media events.
- The promotion of safe bicycling.

The effective date of the bill is July 1, 1999.

HB 613--Tampa Bay Estuary License Plate by Henriquez & Others (passed as SB 1266 by Sebesta)

House Committee(s) of Reference: Transportation; Finance & Taxation;
Transportation & Economic Development Appropriations

The bill requires the Department of Highway Safety and Motor Vehicles to issue a "Tampa Bay Estuary" license plate. In addition to the usual specialty license plate fees, a \$15 annual use fee will be charged for this new specialty license plate.

Annual use fee proceeds are authorized to be used in the following manner:

- 20 percent, not to exceed \$50,000, to the Tampa Bay Regional Planning Council for support of activities of the Agency on Bay Management.

- Up to 5 percent for marketing the Tampa Bay Estuary license plate.
- Of the remaining proceeds, implementation of the Comprehensive Conservation and Management Plan for Tampa Bay in accordance with priorities approved by the Tampa Bay Estuary Program Policy Board.

The effective date of the bill is July 1, 1999.

HB 849--Golf Carts & Utility Vehicles **by Farkas** (passed as SB 996 by Transportation)

House Committee(s) of Reference: Transportation; Community Affairs

This bill defines a “low speed vehicle” as any four wheeled electric vehicle whose top speed is more than 20 miles per hour but less than 25 miles per hour, and authorizes the operation of such vehicles on local roads and urban minor arterial roads where the posted speed-limit does not exceed 35 miles per hour. The bill requires low-speed vehicles to be equipped with headlamps, stop lamps, tail lamps, reflex reflectors, parking brakes, rearview mirrors, windshields, seat belts, and vehicle identification numbers. The bill further requires operators of low-speed vehicles to be licensed and insured.

The bill also authorizes municipalities to use golf carts and utility vehicles on public roads, if specified safety requirements are met.

The bill is effective on becoming a law.

CS/HB 967--Traffic Control/Highway Safety Motor Vehicles **by Transportation; Kyle and Others** (passed as CS/CS/SB 1270 Fiscal Policy; Transportation; Casas and Forman)

House Committee(s) of Reference: Transportation; Agriculture; Finance & Taxation; Transportation & Economic Development Appropriations

The bill contains numerous changes to provisions of law relating to programs administered by the Department of Highway Safety and Motor Vehicles (DHS&MV). Substantive issues included in the bill relate to traffic control, highway safety, motor vehicles, drivers' licenses, and vessels. Major provisions include:

Traffic Control - The bill establishes employment requirements and responsibilities for traffic accident investigation officers employed by the Florida Highway Patrol. The bill

provides for increased penalties for allowing debris on a vehicle to escape onto the highway. The bill exempts authorized emergency motor vehicles from requirements relating to unattended motor vehicles.

Motor Vehicle Registration - The bill enhances the fleet registration program by revising eligibility requirements and providing additional flexibility for program participants. The bill creates a manufacturer license plate, redefines antique vehicles, and abolishes the collectible license plate. The bill also creates a new category for antique firefighting and military equipment. Finally, the bill provides for enhanced penalties for deliberate misuse of temporary tags to avoid registration requirements.

Drivers' Licenses The bill contains several provisions regarding DUI-related suspensions. The bill deletes the requirement for an informal review in the case of license suspensions where the person fails to appear for the formal hearing without just cause. The bill provides that no administrative suspension may be stayed upon request for review until the judicial review determines the validity of the order. The bill provides a person is not eligible for a business or employment purposes license until after the expiration of the mandatory suspension period.

Motor Vehicle Inspection Program - The bill revises the motor vehicle emissions inspection program to implement the following: exempt the current and two most recent model year vehicles from testing; provide for the continued use of the current testing procedures and equipment; and impose a \$19 cap on inspection fees. The bill also provides that contracts entered into pursuant to the bill may not exceed 7 years in length.

Vessel Registration and Titling - The bill implements numerous changes to chapters 327 and 328, F.S. These provisions are intended to make vessel titling and registration laws consistent with comparable motor vehicle titling and registration requirements.

The effective date of the bill is on becoming a law, except as provided otherwise.

HB 1015--Driver's Licenses/Sale of Information by Feeney and Others (CS/SB 1898 by Transportation & Brown- Waite)

House Committee(s) of Reference: Transportation; Transportation & Economic Development Appropriations

The bill repeals the Department of Highway Safety and Motor Vehicles' authority to sell copies of photographs, electronically stored photographs, and other driver's license

and state identification card information when such information is used for fraud prevention. As a result, the Department is prohibited from releasing driver license photographs and digital images, except for law enforcement purposes.

The bill also requires the State Technology Council to create a Task Force on Privacy and Technology. The task force shall include professionals in the fields of communications, government, law enforcement, law, marketing, technology, and financial services, including, but not limited to, the Society of Consumer Affairs Professionals in Business, the Florida Retail Federation, and the Office of Statewide Prosecution. The task force is required to issue a report with recommendations by February 1, 2000, on the following issues:

- Privacy issues under the Constitutions and laws of the United States and the State of Florida, the Public Records Act, and the advent of the use of advanced technologies.
- Technology fraud, including, but not limited to, the illegal use of citizens' identities and credit.
- Balancing the traditional openness of public records in the state with the need to protect the privacy and identity of individuals.
- The sale of public records to private individuals and companies.

The bill is effective on becoming a law.

HB 1909--Florida Wildflower License Plate by Kosmas & Others (SB 2018 by Kirkpatrick)

House Committee(s) of Reference: Transportation; Finance & Taxation;
Transportation & Economic Development Appropriations

The bill requires the Department of Highway Safety and Motor Vehicles to issue a "Florida Wildflower" license plate. In addition to the usual specialty license plate fees, a \$15 annual use fee will be charged for this new specialty license plate.

Annual use fee proceeds must be used to establish native Florida wildflower research programs, wildflower educational programs and wildflower grant programs.

The effective date of the bill is July 1, 1999.

HB 2283--Florida Memorial College License Plate

by Logan (Passed as SB 1538 by Dawson-White & Others)

House Committee(s) of Reference:

The bill directs the Department of Highway Safety and Motor Vehicles (DHS&MV) to develop a Florida Memorial College license plate. Such plates would be available upon payment of appropriate license taxes, and an annual use fee of \$25. The \$25 annual use fee will be distributed to the Florida Memorial College.

The effective date of the bill is July 1, 1999

TOURISM COMMITTEE

1999 End-of-Session Summary

Bills that Passed Both Houses

CS/1st Eng/HB 519--Spring Training Franchise Facilities by Tourism; Sembler (CS/SB 1940 by Comprehensive Planning, Local & Military Affairs; Kurth)

House Committee(s) of Reference: Tourism; Finance & Taxation; Transportation & Economic Development Appropriations

CS/1st Eng/HB 519 amends s. 125.0104 (2)(b), F.S., 1998 Supplement, providing a definition for a “retained spring training franchise.” “Retained spring training franchise” is defined as a spring training franchise that had a location in this state on or before December 31, 1998, and that has continuously remained at that location for at least the 10 years preceding that date.

The bill also amends s. 125.0104 (3)(l) and (n), F.S., 1998 Supplement, to provide that the additional local option tourist development taxes presently authorized to pay the debt service on bonds to finance the construction, reconstruction, or renovation of a professional sports franchise facility or a convention center and to pay for the planning and design costs incurred prior to the issuance of the bonds, may also be used to pay the debt service on bonds to finance the acquisition, construction, or renovation of a “retained spring training franchise facility” and to pay the planning and design costs incurred prior to the issuance of the bonds. In order for a local government to be able to assess the first professional sports franchise facility/convention center 1 percent levy, the initial local option tourist development tax of 1 to 2 percent and the subsequent authorized local option tourist development tax of 1 percent must have been levied pursuant to s. 125.0104, F.S., 1998 Supplement. In order to access the second 1 percent levy authorized under s. 125.0104(3)(n), F.S., 1998 Supplement, the governing board must have already authorized the levy under s. 125.0104(3)(l), F.S., 1998 Supplement.

As of June 1998, 42 counties assessed the initial local option tourist development tax levy of 1 to 2 percent. Of those counties, 24 counties levied the additional local option tourist tax of 1 percent. Half of these counties, 12, levied the initial professional sports franchise facility tax/convention center tax of 1 percent. As of June 1998, only three counties levied the additional professional sports franchise facility tax of 1 percent.

Of the 20 professional spring training franchise facilities located in Florida, nine meet the criteria of a “retained spring training franchise” as defined in the bill. Five of the nine are located in counties that already have levied the 1 percent under the first professional sports franchise/convention center levy. The remaining four are located in counties that have not levied the 1 percent but still have it available to them. Only one “retained spring training franchise” facility is privately-owned by the franchise ownership and only one local government governing board would, therefore, directly benefit from including the “acquisition” of such a facility to the language in s. 125.0104(3)(l), F.S., 1998 Supplement.

Of the five retained spring training franchise facilities located in areas levying the first professional sports 1 percent tax authorized, all are in counties that could potentially levy the second authorized professional sports franchise tax and use the funds for retained spring training franchise facilities now provided for in the bill. Others will become eligible for funding as they meet the definition contained in the bill and as the respective local governing bodies levy the first percent under s. 125.0104(3)(l), F.S., 1998 Supplement.

Section 2 of the bill provides an appropriation from General Revenue of \$3.75 million in fiscal year 1999-2000 and \$3.75 million in fiscal year 2000-2001 to the Office of Tourism, Trade and Economic Development (OTTED) in the Office of the Governor to be used as a grant to a unit of local government for the acquisition, construction, reconstruction, or renovation of a privately owned retained spring training franchise facility. OTTED is required to verify certain conditions prior to distribution of this appropriation.

The effective date of the bill is July 1, 1999.

HB 579--Tourism

by Tourism; Starks & Others (Passed as sections 14 -21 of CS/CS/1st Eng/SB 1566 by Fiscal Policy; Commerce & Economic Opportunities; Kirkpatrick)

House Committee(s) of Reference: Tourism; Transportation; Business Development & International Trade; Transportation & Economic Development Appropriations

The bill amends several sections of the statutes which relate to the Florida Commission on Tourism and the Florida Tourism Industry Marketing Corporation, dba Visit Florida. It corrects one of the references to the Commission’s strategic plan by changing the time frame from 5-years to 4-years, thereby making it the same as the other references. A correction is made in the definition of “tourist” to reflect that a person who participates

in trade or recreation activities outside of his or her home county and not country is considered a tourist. The proposal also removes an obsolete reference to when the Commission's first meeting must take place and provides that the commission will elect its vice-chair annually instead of biennially. It also adds a provision relating to the term lengths of the 17 general-tourism-industry members to make the 2, four-year consecutive term limit apply only after June 30, 1996. Obsolete provisions relating to the powers and duties of the Commission are removed and the provision relating to the required one-to-one match of private to public contributions is further delineated regarding what can be used in calculating the private sector match. Language is added to provide that staff support for the Commission will be provided by Visit Florida and that the president and chief executive officer of Visit Florida will serve as the executive director of the Commission.

Language is also added that establishes a statewide advisory committee of the Commission to assist the Commission with implementation of a plan to protect and promote all of the natural, coastal, historical, and cultural tourism assets of the state. Membership criteria for the advisory committee is delineated. The Commission is instructed to incorporate nature-based tourism and heritage tourism components into its comprehensive tourism marketing plan.

Finally, effective July 1, 1999, the proposal reduces the responsibility for the Department of Transportation by removing its statutory responsibilities for the Welcome Centers Office that was placed there in 1996 for administrative and fiscal accountability purposes only. The responsibility for the Office is transferred to the Commission on Tourism and Visit Florida, its direct support organization, thereby privatizing the operation. Staff of the Welcome Centers is to be offered employment through Visit Florida at the same salary they received through the Department of Transportation but with the same benefits provided by the direct-support organizations to its employees. By January 1, 2000, all Welcome Center employees must choose to be employed by Visit Florida or remain employed by the state. Until June 30, 2001, for Welcome Center employees choosing to remain in state employment, the Department of Transportation may continue to assign them to the centers. The agreement between the department and the Florida Commission on Tourism concerning the funding of welcome center positions will continue until all of the employees are employed by Visit Florida or until they have found other state employment, but no later than June 30, 2001. Additionally, the law regarding Welcome Centers was clarified and the current contractual responsibilities of the Department of Transportation and the Florida Commission on Tourism and Visit Florida for maintenance, management, and repairs of Welcome Centers was codified.

The effective date of the bill is July 1, 1999.

HB 675--Historical Resources Publication

by Russell (Passed as section 3 of CS/2nd Eng/SB 1444 by Regulated Industries; Jones)

House Committee(s) of Reference: Tourism; Business Regulation & Consumer Affairs; Transportation & Economic Development Appropriations

The bill amends s. 267.081, F.S., to provide for the deposit of revenues received from sales of publications by the Division of Historical Resources of the Department of State in either the operating trust fund of the division or in a separate depository account of a statutorily approved citizen support organization under s. 267.17, F.S. The use of the separate depository account is subject to a letter of agreement between the division and the CSO. All other administrative procedures concerning the sale of publications remain the same.

Upon the renewal of the Division of Historical Resources' annual agreement with its CSO, the office of the Inspector General and the Division of Administrative Services within the Department of State recommended the inclusion in law of certain authority for the division's customary deposit of checks into an account held by the Florida Trust for Historical Preservation. Although there are other statutory provisions as indicated above that provide for the actions of the division, the department's requested change is to remove any audit questions that might arise by specifically codifying practice.

The change codifies existing practice. There is no fiscal impact.

The effective date of the bill is upon becoming a law.

1st Eng/HB 985--Entertainment Florida Act of 1999

by Tourism; Starks & Others (Passed as sections 1 - 6 and 11 -13 of CS/CS/1st Eng/SB 1566 by Fiscal Policy; Commerce & Economic Opportunities; Kirkpatrick)

House Committee(s) of Reference: Tourism; Governmental Rules & Regulation; Transportation & Economic Development Appropriations

The bill repeals the statutes which provide for the administration of programs to develop the entertainment industry through a contract with a private, not-for-profit corporation or a direct-support organization. The bill directs that these functions are to be administered by the Office of the Film Commissioner (Office), a centralized, state level office established within the Office of Tourism, Trade and Economic Development (OTTED) in the Office of the Governor. A definition of the term "entertainment industry" as it applies to the Office of the Film Commissioner and the Florida Film Advisory

Council is provided. Additionally, s. 288.1253, F.S., is created to provide authorization for the Office of the Film Commissioner, subject to Comptroller's Office and OTTED oversight, to expend funds on travel and entertainment for certain business clients and for certain business-related functions.

The bill creates the Florida Film Advisory Council which will be administratively housed within OTTED. It is created to provide industry direction on promoting the growth of the entertainment industry in the state. The Governor, President of the Senate, and Speaker of the House of Representatives are to make appointments under criteria prescribed within the act. The Council's duties and powers are delineated, including, but not limited to, advising on development of a 5-year strategic plan by the office to develop, promote, and serve the state's entertainment industry and reviewing and advising on the implementation of the plan.

The Film Commissioner's Office, created within OTTED, is directed, among other things, to develop and implement the 5-year strategic plan, develop a methodology for working with local entertainment industry promotion offices in providing service to the industry, serve as a liaison between government and the entertainment industry and serve as a liaison between the entertainment industry and labor interests.

July 1, 1999, 3 full-time-equivalent positions are appropriated to the Executive Office of the Governor to implement provisions related to the Office of the Film Commissioner.

Various provisions of Chapter 288, F.S., relating to the Florida Film and Television Investment Act and the Florida Film and Television Investment Board are repealed.

Finally, the bill creates within OTTED the "21st Century Digital Television and Education Task Force" to serve through February 1, 2000. OTTED is to provide staff support to the task force. Membership of the twelve member task force includes: two members appointed by the Governor; two members of the Senate, or their designees, appointed by the Senate President; two members of the House of Representatives, or their designees, appointed by the House Speaker; the Commissioner of Education or the Commissioner's designee; the Chancellor of the State University System, or the Chancellor's designee; the Executive Director of the State Community College System, or the director's designee; the President of the Independent Colleges and Universities of Florida or the president's designee; a representative of Enterprise Florida, Inc., ; and the Film Commissioner. The task force is directed to devise a plan to recruit digital industries to locate in Florida; recommend economic incentives to assist the recruitment of certain digital industries to Florida; devise a plan to create and maintain higher education opportunities for students interested in the digital television field; recommend methods to hasten the conversion of existing commercial television studios and sound stages from analog to digital technology; investigate means of assisting public broadcast stations in their conversion from analog to digital technology; and

issue a report to the Legislature prior to February 1, 2000 on its findings and recommendations.

The effective date of the bill is July 1, 1999.

HB 1449--Designations/Official Flagship
by Sorensen (Passed as section 3 of 1st Eng/HB 85 by Cosgrove)

House Committee(s) of Reference: Tourism

The bill designates the schooner Western Union, a historic sailing vessel of the tallship class, built in Key West, Florida, and first launched in 1939, as an official flagship of the State of Florida.

The effective date of the bill is upon becoming a law.

**HB 2103--State Athletic Commission
by Tourism; Starks & Others** (Passed as part of CS/CS/1st Eng/SB
1566 by Fiscal Policy; Commerce & Economic Opportunities;
Kirkpatrick)

House Committee(s) of Reference of House Bill: Tourism; Governmental
Operations; General Government Appropriations

The State Athletic Commission, created under Chapter 548, F.S., and attached to the Department of Business and Professional Regulation (DBPR), is responsible for providing oversight and regulation of pugilistic exhibitions under Chapter 548, F.S., and for carrying out the provisions of that chapter. The bill amends several provisions of Chapter 548, F.S., relating to pugilistic exhibitions. It changes the name of the State Athletic Commission to the Florida State Boxing Commission to more clearly indicate what is governed by the Commission which is boxing and kickboxing and changes the name of the executive secretary to executive director. The bill deletes reference to martial arts, other than kickboxing, being under the jurisdiction of the Commission since this has never been regulated by the Commission and there are no professional martial arts matches being held in Florida. Confusing and unnecessary references to amateur events and amateurs are deleted since the chapter pertains to professional events. Additionally, the bill updates the law by deleting outdated terms, increasing minimums for surety bonds, removing the use of bearer bonds in lieu of surety bonds, changing requirements for maintenance of information on distribution of purses, and clarifying rulemaking authority of the Commission.

The bill amends Chapter 548, F.S., to provide greater accountability for the Commission membership, executive secretary of the Commission, and the activities of the Commission. The bill specifies criteria for removal of members, provides that the Department of Business and Professional Regulation employs the executive director with the approval of the Commission, and provides that the executive director serves at the pleasure of the Secretary of DBPR. Additionally, the bill provides certain procedures for meetings similar to those required for other commissions and boards, including the electronic recording of meetings. With regard to accountability of the actions and activities of the Commission, the bill requires the development of a long-range policy plan that includes performance measures and a long range monitoring process with specific items delineated for evaluation. Concise management reports are required. The plans must be approved by the Governor and annually submitted to the Legislature for review. DBPR is to assist the Commission with the plans and is to provide progress reports to the Commission. The department is also responsible for having oversight of the activities of the Commission.

Provisions of Chapter 548, F.S., are amended to further clarify the relationship between the Commission and DBPR. The Commission is assigned to the department for administrative and fiscal accountability purposes only. The department is required to provide all legal and investigative services necessary to implement Chapter 548, F.S. The department provides technical assistance and administrative support in areas such as budget preparation and submission, personnel, property management, or other areas necessary for compliance with requirements of the chapter or for protecting the interests of the state. The department is required to submit an annual balanced legislative budget for the commission which is based upon anticipated revenue. Commission authority to carry out the provisions of Chapter 548, F.S., is unchanged.

Provisions which prohibit toughman and badman competitions are amended to provide that amateur as well as professional competitions are prohibited. Finally, the bill revises the limitations prescribed for acceptable differences in weight classes by resetting the statutory maximum and by providing that the Commission will establish by rule the acceptable difference for each class. Similarly, the bill provides the Commission to establish by rule the appropriate weight of boxing gloves for each match while changing the minimum from 6 to 8 ounces.

The effective date of the bill is July 1, 1999.

**HB 2129--Sports-Related Industries/Promotion
by Tourism; Starks & Others**(Passed as sections 1 and 7 - 10 of
CS/CS/1st Eng/SB 1566 by Fiscal Policy; Commerce & Economic
Opportunities; Kirkpatrick)

House Committee(s) of Reference: Tourism; Transportation & Economic
Development Appropriations

The bill authorizes the direct-support organization, known as the "Florida Sports Foundation" (Foundation), established under the Governor's Office of Tourism, Trade, and Economic Development (OTTED) to absorb many of the duties currently assigned to the Governor's Council on Physical Fitness and Amateur Sports (Council). These activities include the promotion of physical fitness and amateur sports for the citizens of Florida, the promotion of Florida as a host for national and international amateur sports competitions, and the administration of the Sunshine State Games. The bill repeals s. 14.22, F.S., which established the Council. Additionally, the bill transfers from the Council to the Foundation the administration of the funds collected from the sale of Olympic license plates under s. 320.08058, F.S., 1998 Supplement. The use of the state funds is clarified to make certain that they are used to support the Sunshine State Games. The bill also provides for the transfer of all funds and property held by the

Council and the Sunshine State Games Foundation, Inc., to the Florida Sports Foundation and requires that such resources will be used to promote amateur sports.

Under current law, the Council is required to promote and provide information and education regarding physical fitness; to promote amateur sports competitions for Floridians; to promote national and international amateur athletic competitions; to promote the development of the Sunshine State Games; and, to promote development of Olympic development centers. Under current law, the Foundation is required to promote the sports industry and related industries in the state; to serve as the primary source of information on sports and sporting opportunities in the state; and, to work in the areas of both professional and amateur sports.

Duties related to the promotion of amateur sports and physical fitness under current law are streamlined and more discretion is given to the direct-support organization by the bill. The promotion and development of Olympic development centers is dissolved and a broader charge is provided in the bill for programs to encourage participation of Florida's youth in Olympic sports and competitions. Also, the 17-member Florida Olympics and Pan American Games Task Force is dissolved and replaced by provisions in the bill requiring the direct-support organization to assist and support Florida bid-cities or communities seeking to host the Summer Olympics or Pan American Games and to annually report to the Governor, President of the Senate and the Speaker of the House of Representatives on the status of the bid-city efforts.

The bill amends the requirements for the qualifications and the number of the board members of the Foundation's board of directors.

Finally, the combining of both the functions and administration of these two sports promotion entities should reduce expenses and eliminate confusion created by having two very similar organizations representing sports interests of Florida. Overall cost savings estimated by OTTED totals \$756, 578.

The effective date of the bill is July 1, 1999.

**HOUSE OF REPRESENTATIVES
FISCAL RESPONSIBILITY COUNCIL
1999 Summary of Passed Legislation**



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Representative George A. Crady, Vice-Chair*

COMMITTEE ON EDUCATION APPROPRIATIONS

*Representative Stephen R. Wise, Chair
Representative Cynthia Chestnut, Vice-Chair*

COMMITTEE ON FINANCE & TAXATION

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Representative Frederick C. "Fred" Brummer, Vice-Chair*

COMMITTEE ON GENERAL APPROPRIATIONS

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COMMITTEE ON TRANSPORTATION & ECONOMIC DEVELOPMENT APPROPRIATIONS

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Representative Alzo J. Reddick, Vice-Chair*

***Representative Kenneth P. "Ken" Pruitt, Council Chair
May 1999***

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COMMITTEE ON FINANCE & TAXATION

1999 End-of-Session Summary

Bills that Passed Both Houses

HB 1941 -- Florida Residents' Tax Relief Act
by Finance & Taxation and Representative Albright & Others (The substance of this bill passed as CS/2ND ENG/SB 140 by Fiscal Resource and Senator Cowin & Others)

House Committee(s) of Reference: Finance and Taxation

The bill provides that no sales tax shall be collected on the sale of clothing, shoes, wallets, handbags, backpacks, fanny packs, and diaper bags having a selling price of \$100 or less during the period from 12:01 a.m., July 31, 1999, through midnight, August 8, 1999. The tax-free shopping period does not apply in airports, hotels, and entertainment complexes.

The total estimated fiscal impact upon General Revenue is a reduction of \$29.9 million for FY 1999-2000. There will be a \$0.1 million reduction on the Solid Waste Management Trust Fund. The estimated fiscal impact upon local governments is a \$4.7 million reduction for FY 1999-2000. The total estimated fiscal impact for this bill is a \$34.7 million reduction for FY 1999-2000.

The act shall take effect upon becoming law.

HB 1943 -- Intangible Personal Property Taxes
by Finance & Taxation and Representative Albright & Others (CS/2ND ENG/SB 318 by Fiscal Resource and Senator Lee)

House Committee(s) of Reference: Finance and Taxation

The bill makes the following changes to current law regarding intangible personal property tax:

- The annual intangible tax rate is lowered from 2 mills to 1.5 mills;
- The exemption from intangible tax on the value of accounts

receivable is increased from one-third to two-thirds; and,

- Limited liability companies can file consolidated intangible tax returns as members of an affiliated group.

The total estimated fiscal impact upon General Revenue is a \$165.2 million reduction for FY 1999-2000 and thereafter. The estimated fiscal impact upon local governments is a \$100.1 million reduction for FY 1999-2000 and thereafter. The total estimated fiscal impact for this bill is a \$265 million reduction for FY 1999-2000 and thereafter.

The act shall take effect January 1, 2000.

**HB 1947 -- Tax Administration
by Finance & Taxation and Representative Albright &
Others** (The following provisions were passed as CS/2ND
ENG/SB 172 by Fiscal Resource and Senator Horne &
Others)

House Committee(s) of Reference: None

This bill provides that interest shall be paid on refunds of tax overpayments. Interest will start to accrue 90 days after a complete refund application has been filed.

It also provides that the interest applicable to most tax payment deficiencies will be based on the prime rate and will be adjusted every six months.

The bill raises the threshold for determining businesses that must pay estimated sales taxes from \$100,000 to \$200,000 in sales tax liability for the most recently completed state fiscal year. In addition, the bill reduces the estimated tax payments from 66 percent of estimated liability to 60 percent.

The bill also provides that:

- the statute of limitations for tax assessments and the statute of nonclaim for tax refunds are reduced from five years to three years;
- the filing period for tangible personal property taxes is extended; resale certificates are required to be renewed annually; and
- Duval County is held harmless from the revenue sharing losses

because other counties will have their Florida Retirement System (FRS) savings to cover the lost revenue sharing.

For this portion of the bill, the total estimated fiscal impact upon General Revenue is a \$136.3 million reduction for FY 1999-2000 and a \$126.0 million recurring reduction. The estimated fiscal impact upon state trust funds is a \$2.4 million reduction for FY 1999-2000 and a \$5.1 million recurring reduction. The estimated fiscal impact upon local governments is a \$10.8 million reduction for FY 1999-2000 and a \$17.4 million recurring reduction.

Except as otherwise expressly provided, the act shall take effect July 1, 1999.

HB 1951 -- Unemployment Compensation by Finance & Taxation and Representative Albright & Others (CS/SB 108 by Commerce & Economic Opportunities and Senator McKay)

House Committee(s) of Reference: None

The bill makes the following changes to current law regarding unemployment compensation:

- During calendar year 2000, reduces new employer tax rates from the initial rate of 2.7 percent to 2.0 percent. Experience-rated employer tax rates are reduced by 0.5 percent, with the exception of those employers who have been assigned a tax rate of 5.4 percent or higher for more than 36 months.
- Requires the total disqualification of individuals who work a full-time and part-time job simultaneously and qualify for partial benefits based on being separated from the full-time employer, if they subsequently quit the part-time job.
- Provides a 5 percent increase in weekly benefits for the first 8 weeks of a claim during benefit years beginning January 1, 2000 through December 31, 2000.
- Reauthorizes the Training Investment Program (TIP) until June 30, 2002.

This bill is expected to result in a nonrecurring reduction on the Unemployment Compensation Trust Fund of approximately \$219 million,

with \$119 million occurring in FY 1999-2000 and \$100 million in fiscal year FY 2000-0001. The recurring expenditure from General Revenue needed to fund the continuation of the TIPS program, will cost \$16.5 million per year.

The act shall take effect July 1, 1999.

HB 1953 -- School Impact Fees
by Finance & Taxation and Representative Albright & Others (The following provisions were passed as CS/2ND ENG/SB 172 by Fiscal Resource and Senator Horne & Others)

House Committee(s) of Reference: None

The bill prevents any county not collecting school impact fees on May 1, 1999, from collecting these fees between July 1, 1999, and June 20, 2000. Counties imposing school impact fees will be limited to collecting the amount approved by ordinance before May 1, 1999, during the same period.

An appropriation is provided.

Except as otherwise expressly provided, the act shall take effect July 1, 1999.

HB 1955 -- Alcoholic Beverage Surcharge/Reduced
by Finance & Taxation and Representative Albright & Others (The following provisions were passed as CS/2ND ENG/SB 172 by Fiscal Resource and Senator Horne & Others)

House Committee(s) of Reference: None

The bill reduces the alcoholic beverage surcharge for on-premise consumption by one-third and holds the Children and Adolescent Substance Abuse Trust Fund harmless.

For this portion of the bill, the total estimated fiscal impact upon General Revenue is a \$30.5 million reduction for FY 1999-2000 and a \$37.1 million recurring reduction.

Except as otherwise expressly provided, the act shall take effect July 1, 1999.

HB 2089 -- Tax Administration

by Finance & Taxation and Representative Albright

(Passed as CS/CS/2ND ENG/SB 888, by Commerce and Economic Opportunities; Fiscal Resources and Senator Horne)

House Committee(s) of Reference: Finance and Taxation; General Appropriations

This bill makes the following changes to the administration of revenue laws:

- establishes a procedure for a purchaser to obtain a refund or credit from a seller for municipal utility taxes that were collected in error;
- provides that a small estate may file an affidavit of nonliability for estate tax rather than obtaining a certificate of nonliability for tax from the Department;
- redefines the qualifications required for a taxpayer to receive a property tax exemption as a home for the aged;
- provides an intangible tax credit for a "like tax" paid to another state on the same property as taxed by Florida;
- provides a documentary stamp tax credit for a "like tax" paid to another state on the same property as taxed by Florida;
- clarifies the conditions under which the tax on sales, use, and other transactions does not apply to the sale of materials used in repairing a motor vehicle, airplane, or boat;
- increases the penalties for a person who willfully and with the intent to evade taxation files a false or fraudulent return, fails to maintain records, or fails to file returns;
- revises the provisions relating to the sales tax exemption for charges for electricity or steam used to operate machinery and equipment under specified conditions and provides that it is the intent of the Legislature that the amendments are remedial in nature and merely clarify existing law;

- provides that a nonresident purchaser of a motor vehicle must license the vehicle in his or her home state within 45 days of the purchase to qualify for the partial exemption from sales tax;
- authorizes the executive director of the department to enter into a contract with a private vendor to develop and implement a system to enhance tax collections where compensation to the vendor is funded through increased tax collections;
- restricts the amount of assets subject to a Notice of Freeze in an administrative garnishment to those that do not exceed the delinquency amount of the taxpayer unless the taxpayer has a prior history of tax delinquencies;
- incorporates the most recent changes to the Internal Revenue Code into Florida law for Florida corporate income tax purposes;
- deletes a method for apportioning corporate income tax for an insurance company whose principal source of premiums is from reinsurance policies;
- allows citrus processing companies to elect certain apportionment methods for corporate income tax purposes;
- sets out the procedure for a downtown development district to change its boundaries;
- allows a taxpayer to elect to file a corporate or intangible tax return in a form initiated through an electronic data interchange. The bill allows a property appraiser to elect to allow a taxpayer to file a tangible personal property tax return in a form initiated through an electronic data interchange. The bill allows an employer to file a report with the Division of Unemployment Compensation in a form initiated through an electronic data interchange; and
- provides that sales tax resale certificates must be renewed annually to active accounts and directs the Department of Revenue to provide additional taxpayer information and education on the proper use of resale certificates.

The total estimated fiscal impact upon General Revenue is a \$8.0 million increase for FY 1999-2000 and a \$19.2 million increase for FY 2000-2001. There will be an insignificant impact on the Solid Waste Management Trust Fund. The estimated fiscal impact upon local governments is a \$1.3 million increase for FY 1999-2000 and a \$3.0 million increase for FY 2000-2001.

The total estimated fiscal impact for this bill is a \$9.3 million increase for FY 1999-2000 and a \$22.2 million increase for FY 2000-2001.

Except as otherwise provided, the effective date of this act is upon becoming law.

Committee on General Appropriations

1999 End-of-Session Summary

Bills that Passed Both Houses

HB 1885 -- Lawton Chiles Endowment Fund by Representative Maygarden & Others (CS/1ST ENG/SB 2422 by Senator Latvala & Others)

House Committee(s) of Reference: None

House Bill 1885 by Representative Maygarden creates the Lawton Chiles Endowment Fund. The Endowment will be used as a source of funding for health and human services and biomedical research.

Tobacco settlement revenues will be deposited as the principal of the Endowment over four years. The initial deposit will be \$1.1 billion for FY 1999-2000, with an additional \$200 million deposited in each of the following three years. Funds in the Endowment will be invested as an annuity, but spending is capped at approximately \$33 million for FY 2000-2001, increasing to over \$116 million by FY 2003-2004.

The Florida Biomedical Research Program is created to support research on cancer, cardiovascular disease, stroke, and pulmonary disease. Money appropriated from the Endowment to the Program will be awarded by competitive grants and fellowships approved by the Department of Health. A new advisory council, appointed by the Governor, and a peer review panel, appointed by the Secretary, will advise the Department. Administrative costs are capped at 15 percent.

HB 1885 further provides that if tobacco revenues are insufficient to support appropriations from a tobacco settlement trust fund, all such appropriations will be proportionately reduced, subject to certain conditions.

The effective date of this bill is July 1, 1999.

Committee on Health & Human Services

Appropriations

1999 End-of-Session Summary

Bills that Passed Both Houses

HB 2275 -- Developmental Services Redesign by Health & Human Services Appropriations and Representative Sanderson & Others (Passed as CS/SB 2214 by Senator Forman & Others)

House Committee(s) of Reference: None

House Bill 2275 by Representative Sanderson provides for changes to the way developmentally disabled persons are assessed, how funding follows persons who are moved from institutions and establishes a new section in Chapter 400 for licensure guidelines.

The bill requires the Agency for Health Care Administration (AHCA), after October 1, 1999, to assess persons eligible for long term care services prior to new placements in ICF/DD facilities. It further specifies that AHCA may contract with the Department of Elderly Affairs to do the assessments using their pre-screening long term care assessment units (C.A.R.E.S. teams).

The bill allows for a portion of funding to follow individuals from institutions to the community when enough transfers take place to close a residential unit. (There is no mandatory closure of institutional units.) The bill also allows the Governor to direct AHCA to eliminate the ICF/DD program from Medicaid if the remaining four billion dollars in Medicaid are threatened by the courts.

The bill creates a new section in Chapter 400 for licensure of ICF/DDs, to ensure quality care. It directs the Department of Children and Families to design a system of care for developmental disabilities that is consumer-directed and choice-based and further directs pilots projects to test this system, to a maximum of three projects for this redesign purpose.

It provides for progress reports to the Legislature for the next 2 years.

This effective date of this bill is upon becoming law.

APPENDIX

(Refer to the Council's Table of Contents for Page Numbers)

BILL #	COUNCIL
1	Public Responsibility Council
4	Civil Justice Council
6	Civil Justice Council
9	Academic Excellence Council
11	Criminal Justice & Corrections Council
13	Criminal Justice & Corrections Council
14	Civil Justice Council
17	Public Responsibility Council
19	Civil Justice Council
20	Civil Justice Council
21	Academic Excellence Council
22	Civil Justice Council
23	Criminal Justice & Corrections Council
24	Civil Justice Council
26	Civil Justice Council
27	Consumer Affairs Council
32	Civil Justice Council
33	Civil Justice Council
34	Civil Justice Council
35	Health & Family Services Council
40	Civil Justice Council
46	Civil Justice Council
47	Economic Development Council
48	Civil Justice Council
49	Criminal Justice & Corrections Council
53	Consumer Affairs Council
55	Economic Development Council
60	Criminal Justice & Corrections Council
67	Criminal Justice & Corrections Council
71	Criminal Justice & Corrections Council
72	Criminal Justice & Corrections Council
73	Public Responsibility Council
75	Economic Development Council
77	Consumer Affairs Council
79	Criminal Justice & Corrections Council
80	Civil Justice Council
82	Economic Development Council
85	Civil Justice Council; Economic Development Council
91	Health & Family Services Council
95	Consumer Affairs Council

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BILL #	COUNCIL
107	Public Responsibility Council; Resource & Land Management Council
108	Fiscal Responsibility Council
112	Civil Justice Council
113	Criminal Justice & Corrections Council
114	Health & Family Services Council
121	Criminal Justice & Corrections Council
125	Public Responsibility Council
127	Economic Development Council
130	Criminal Justice & Corrections Council
132	Consumer Affairs Council
133	Consumer Affairs Council
134	Criminal Justice & Corrections Council
135	Criminal Justice & Corrections Council
140	Fiscal Responsibility Council
145	Civil Justice Council
147	Criminal Justice & Corrections Council
150	Consumer Affairs Council
152	Health & Family Services Council
154	Civil Justice Council
156	Consumer Affairs Council
163	Public Responsibility Council
167	Consumer Affairs Council
169	Public Responsibility Council
170	Criminal Justice & Corrections Council
172	Consumer Affairs Council; Fiscal Responsibility Council; Public Responsibility Council
180	Consumer Affairs Council
182	Consumer Affairs Council
183	Criminal Justice & Corrections Council
184	Civil Justice Council
195	Public Responsibility Council
198	Civil Justice Council
199	Civil Justice Council
206	Resource & Land Management Council
209	Consumer Affairs Council
213	Health & Family Services Council
219	Health & Family Services Council
221	Consumer Affairs Council
223	Public Responsibility Council
229	Criminal Justice & Corrections Council
230	Consumer Affairs Council; Public Responsibility Council

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BILL #	COUNCIL
231	Public Responsibility Council
232	Health & Family Services Council
240	Economic Development Council
241	Academic Excellence Council
243	Economic Development Council; Public Responsibility Council
245	Health & Family Services Council
247	Health & Family Services Council
248	Health & Family Services Council
252	Economic Development Council
253	Criminal Justice & Corrections Council
256	Health & Family Services Council
257	Academic Excellence Council
259	Academic Excellence Council
260	Economic Development Council
261	Public Responsibility Council
267	Economic Development Council
268	Civil Justice Council
269	Resource & Land Management Council
276	Health & Family Services Council
280	Economic Development Council
281	Public Responsibility Council
282	Economic Development Council
283	Civil Justice Council
289	Public Responsibility Council
290	Public Responsibility Council
291	Civil Justice Council
295	Consumer Affairs Council
297	Public Responsibility Council
298	Civil Justice Council
301	Civil Justice Council
303	Public Responsibility Council
305	Public Responsibility Council
309	Academic Excellence Council
311	Economic Development Council; Public Responsibility Council
312	Consumer Affairs Council; Health & Family Services Council
313	Public Responsibility Council
315	Consumer Affairs Council
317	Consumer Affairs Council
318	Consumer Affairs Council; Fiscal Responsibility Council
319	Health & Family Services Council

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BILL #	COUNCIL
326	Public Responsibility Council
327	Criminal Justice & Corrections Council
329	Resource & Land Management Council
330	Academic Excellence Council
333	Civil Justice Council
334	Civil Justice Council
337	Health & Family Services Council
338	Civil Justice Council
340	Consumer Affairs Council
345	Civil Justice Council
349	Criminal Justice & Corrections Council
357	Public Responsibility Council
361	Civil Justice Council
365	Academic Excellence Council
366	Academic Excellence Council
377	Health & Family Services Council
383	Civil Justice Council
389	Criminal Justice & Corrections Council
391	Criminal Justice & Corrections Council
401	Public Responsibility Council
403	Consumer Affairs Council
407	Academic Excellence Council
411	Economic Development Council
415	Consumer Affairs Council
417	Consumer Affairs Council
421	Criminal Justice & Corrections Council
423	Civil Justice Council
425	Criminal Justice & Corrections Council
431	Health & Family Services Council
433	Consumer Affairs Council
467	Resource & Land Management Council
469	Civil Justice Council
475	Public Responsibility Council
481	Civil Justice Council
485	Criminal Justice & Corrections Council
489	Health & Family Services Council
509	Economic Development Council
511	Consumer Affairs Council
513	Consumer Affairs Council
515	Civil Justice Council
519	Economic Development Council
521	Health & Family Services Council
529	Civil Justice Council
533	Consumer Affairs Council

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BILL #	COUNCIL
535	Consumer Affairs Council
561	Public Responsibility Council
569	Resource & Land Management Council
571	Economic Development Council
573	Public Responsibility Council
579	Economic Development Council
587	Public Responsibility Council
589	Economic Development Council
591	Economic Development Council
601	Economic Development Council
605	Public Responsibility Council
613	Economic Development Council
619	Public Responsibility Council
621	Public Responsibility Council
633	Health & Family Services Council
635	Civil Justice Council
645	Health & Family Services Council
647	Economic Development Council; Public Responsibility Council
655	Health & Family Services Council
659	Public Responsibility Council
660	Health & Family Services Council
661	Consumer Affairs Council
662	Public Responsibility Council
664	Academic Excellence Council
667	Academic Excellence Council
672	Consumer Affairs Council
673	Consumer Affairs Council
674	Health & Family Services Council
675	Economic Development Council
676	Resource & Land Management Council
681	Consumer Affairs Council
687	Health & Family Services Council
697	Resource & Land Management Council
698	Academic Excellence Council
699	Health & Family Services Council
701	Civil Justice Council
713	Academic Excellence Council
714	Public Responsibility Council
716	Public Responsibility Council
717	Consumer Affairs Council
719	Consumer Affairs Council
721	Resource & Land Management Council
728	Resource & Land Management Council

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BILL #	COUNCIL
735	Health & Family Services Council
737	Civil Justice Council
740	Civil Justice Council
741	Health & Family Services Council
743	Consumer Affairs Council
746	Consumer Affairs Council
748	Criminal Justice & Corrections Council
751	Academic Excellence Council
752	Public Responsibility Council
754	Public Responsibility Council
756	Public Responsibility Council
765	Academic Excellence Council
771	Health & Family Services Council
775	Civil Justice Council
780	Resource & Land Management Council
781	Criminal Justice & Corrections Council
783	Consumer Services Council; Health & Family Services Council
789	Consumer Affairs Council
797	Health & Family Services Council
800	Health & Family Services Council
801	Resource & Land Management Council
805	Academic Excellence Council
808	Civil Justice Council
810	Economic Development Council
811	Health & Family Services Council
814	Civil Justice Council
826	Consumer Affairs Council
849	Economic Development Council
855	Health & Family Services Council
864	Resource & Land Management Council
867	Public Responsibility Council
869	Health & Family Services Council
872	Consumer Affairs Council
874	Consumer Affairs Council
881	Economic Development Council
885	Public Responsibility Council
886	Economic Development Council
888	Fiscal Responsibility Council; Resource & Land Management Council
890	Health & Family Services Council
892	Economic Development Council
897	Consumer Affairs Council
908	Resource & Land Management Council

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BILL #	COUNCIL
917	Health & Family Services Council
923	Health & Family Services Council
925	Consumer Affairs Council
928	Civil Justice Council
931	Health & Family Services Council
934	Resource & Land Management Council
936	Civil Justice Council; Criminal Justice & Corrections Council
939	Civil Justice Council
940	Economic Development Council
941	Civil Justice Council
954	Criminal Justice & Corrections Council
961	Health & Family Services Council
965	Health & Family Services Council
967	Consumer Affairs Council; Economic Development Council
971	Health & Family Services Council
972	Economic Development Council
974	Civil Justice Council
975	Consumer Affairs Council; Public Responsibility Council
976	Health & Family Services Council
977	Civil Justice Council
981	Health & Family Services Council
985	Economic Development Council
987	Academic Excellence Council
989	Health & Family Services Council
990	Consumer Affairs Council
995	Consumer Affairs Council
996	Economic Development Council
1007	Academic Excellence Council
1008	Consumer Affairs Council
1009	Civil Justice Council
1013	Public Responsibility Council
1015	Economic Development Council
1018	Economic Development Council
1021	Economic Development Council
1031	Health & Family Services Council
1038	Academic Excellence Council
1054	Economic Development Council
1061	Consumer Affairs Council
1063	Civil Justice Council
1066	Economic Development Council
1070	Consumer Affairs Council

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BILL #	COUNCIL
1072	Consumer Affairs Council
1073	Health & Family Services Council
1075	Consumer Affairs Council
1077	Economic Development Council
1081	Health & Family Services Council
1087	Resource & Land Management Council
1091	Resource & Land Management Council
1095	Health & Family Services Council
1107	Civil Justice Council
1109	Civil Justice Council
1111	Civil Justice Council
1118	Resource & Land Management Council
1122	Resource & Land Management Council
1131	Health & Family Services Council
1133	Resource & Land Management Council
1143	Resource & Land Management Council
1145	Academic Excellence Council
1147	Economic Development Council
1162	Consumer Affairs Council
1168	Civil Justice Council
1178	Criminal Justice & Corrections Council
1180	Resource & Land Management Council
1182	Health & Family Services Council
1200	Consumer Affairs Council
1206	Consumer Affairs Council
1234	Consumer Affairs Council
1242	Consumer Affairs Council
1250	Resource & Land Management Council
1264	Consumer Affairs Council
1266	Economic Development Council
1270	Consumer Affairs Council; Economic Development Council; Public Responsibility Council
1280	Consumer Affairs Council
1288	Academic Excellence Council
1292	Academic Excellence Council
1296	Public Responsibility Council
1308	Consumer Affairs Council
1312	Economic Development Council
1314	Economic Development Council
1326	Consumer Affairs Council
1334	Civil Justice Council
1352	Consumer Affairs Council
1356	Health & Family Services Council

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BILL #	COUNCIL
1396	Health & Family Services Council
1411	Academic Excellence Council
1415	Health & Family Services Council
1424	Resource & Land Management Council
1426	Consumer Affairs Council
1430	Civil Justice Council
1431	Health & Family Services Council
1434	Resource & Land Management Council
1437	Economic Development Council
1440	Academic Excellence Council
1441	Criminal Justice & Corrections Council
1444	Consumer Affairs Council
1449	Economic Development Council
1451	Criminal Justice & Corrections Council
1463	Public Responsibility Council
1464	Consumer Affairs Council
1467	Health & Family Services Council
1468	Public Responsibility Council
1479	Consumer Affairs Council; Economic Development Council
1484	Civil Justice Council
1485	Civil Justice Council
1495	Academic Excellence Council
1505	Criminal Justice & Corrections Council
1513	Civil Justice Council
1514	Health & Family Services Council
1515	Resource & Land Management Council
1516	Consumer Affairs Council
1523	Civil Justice Council
1526	Economic Development Council
1527	Health & Family Services Council
1534	Public Responsibility Council
1535	Resource & Land Management Council
1536	Academic Excellence Council
1538	Economic Development Council
1549	Consumer Affairs Council
1552	Academic Excellence Council
1560	Economic Development Council
1566	Academic Excellence Council; Consumer Affairs Council; Economic Development Council; Public Responsibility Council
1578	Economic Development Council
1582	Resource & Land Management Council
1585	Health & Family Services Council

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BILL #	COUNCIL
1596	Civil Justice Council
1598	Health & Family Services Council
1604	Criminal Justice & Corrections Council
1606	Criminal Justice & Corrections Council
1616	Economic Development Council
1639	Resource & Land Management Council
1646	Academic Excellence Council
1657	Consumer Affairs Council
1659	Civil Justice Council
1664	Academic Excellence Council
1666	Civil Justice Council
1672	Resource & Land Management Council
1687	Health & Family Services Council
1696	Civil Justice Council
1697	Academic Excellence Council
1699	Resource & Land Management Council
1703	Health & Family Services Council
1706	Criminal Justice & Corrections Council
1707	Public Responsibility Council
1711	Consumer Affairs Council
1712	Consumer Affairs Council
1737	Public Responsibility Council
1742	Criminal Justice & Corrections Council
1749	Consumer Affairs Council
1756	Academic Excellence Council
1765	Resource & Land Management Council
1769	Criminal Justice & Corrections Council
1771	Public Responsibility Council
1777	Health & Family Services Council
1779	Civil Justice Council
1790	Consumer Affairs Council
1794	Academic Excellence Council
1795	Health & Family Services Council
1809	Economic Development Council
1816	Consumer Affairs Council
1825	Economic Development Council
1829	Resource & Land Management Council
1830	Consumer Affairs Council
1831	Public Responsibility Council
1832	Consumer Affairs Council
1837	Academic Excellence Council; Civil Justice Council
1847	Health & Family Services Council
1848	Academic Excellence Council

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BILL #	COUNCIL
1849	Resource & Land Management Council
1855	Resource & Land Management Council
1866	Criminal Justice & Corrections Council
1870	Public Responsibility Council
1871	Health & Family Services Council
1875	Consumer Affairs Council
1877	Civil Justice Council
1879	Civil Justice Council
1881	Health & Family Services Council
1883	Public Responsibility Council
1885	Fiscal Responsibility Council; Health & Family Services Council
1894	Economic Development Council
1898	Economic Development Council
1902	Health & Family Services Council
1907	Consumer Affairs Council
1908	Health & Family Services Council
1909	Economic Development Council
1921	Resource & Land Management Council
1924	Academic Excellence Council
1925	Public Responsibility Council
1927	Health & Family Services Council
1930	Economic Development Council
1933	Academic Excellence Council
1940	Economic Development Council
1941	Fiscal Responsibility Council Consumer Affairs Council; Fiscal Responsibility Council
1943	Fiscal Responsibility Council
1947	Fiscal Responsibility Council
1951	Fiscal Responsibility Council
1953	Fiscal Responsibility Council
1955	Consumer Affairs Council; Fiscal Responsibility Council
1963	Economic Development Council; Public Responsibility Council
1971	Health & Family Services Council
1974	Civil Justice Council
1975	Consumer Affairs Council
1977	Consumer Affairs Council; Economic Development Council
1978	Consumer Affairs Council
1983	Health & Family Services Council
1984	Academic Excellence Council
1985	Health & Family Services Council

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BILL #	COUNCIL
1993	Health & Family Services Council
2001	Health & Family Services Council
2003	Health & Family Services Council
2015	Consumer Affairs Council
2017	Economic Development Council
2018	Economic Development Council
2019	Civil Justice Council
2021	Resource & Land Management Council
2023	Resource & Land Management Council
2031	Health & Family Services Council
2038	Resource & Land Management Council
2043	Public Responsibility Council
2050	Academic Excellence Council
2054	Criminal Justice & Corrections Council
2055	Public Responsibility Council
2057	Resource & Land Management Council
2058	Academic Excellence Council
2066	Resource & Land Management Council
2067	Resource & Land Management Council
2068	Civil Justice Council
2069	Resource & Land Management Council
2071	Consumer Affairs Council; Health & Family Services Council
2073	Economic Development Council
2075	Consumer Affairs Council; Economic Development Council
2079	Public Responsibility Council
2085	Economic Development Council
2089	Fiscal Responsibility Council
2091	Health & Family Services Council
2103	Economic Development Council
2109	Public Responsibility Council
2111	Health & Family Services Council
2119	Health & Family Services Council
2121	Health & Family Services Council
2123	Academic Excellence Council; Consumer Affairs Council
2124	Health & Family Services Council
2125	Health & Family Services Council
2129	Economic Development Council
2131	Health & Family Services Council
2133	Criminal Justice & Corrections Council
2141	Academic Excellence Council
2145	Resource & Land Management Council

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BILL #	COUNCIL
2147	Academic Excellence Council
2149	Civil Justice Council
2151	Resource & Land Management Council
2152	Economic Development Council
2161	Criminal Justice & Corrections Council
2163	Public Responsibility Council
2169	Consumer Affairs Council
2181	Public Responsibility Council
2183	Economic Development Council
2186	Academic Excellence Council
2187	Criminal Justice & Corrections Council
2189	Criminal Justice & Corrections Council
2193	Economic Development Council
2195	Economic Development Council
2219	Public Responsibility Council
2228	Health & Family Services Council
2231	Health & Family Services Council
2235	Consumer Affairs Council
2238	Resource & Land Management Council
2239	Health & Family Services Council
2242	Economic Development Council
2263	Public Responsibility Council
2264	Consumer Affairs Council
2268	Consumer Affairs Council
2275	Fiscal Responsibility Council
2280	Public Responsibility Council
2282	Resource & Land Management Council
2283	Economic Development Council
2292	Consumer Affairs Council
2296	Consumer Affairs Council
2360	Health & Family Services Council
2380	Public Responsibility Council; Resource & Land Management Council
2402	Consumer Affairs Council
2422	Fiscal Responsibility Council
2434	Academic Excellence Council
2438	Health & Family Services Council
2454	Economic Development Council
2490	Economic Development Council
2496	Consumer Affairs Council
2536	Resource & Land Management Council
2548	Economic Development Council
2554	Consumer Affairs Council; Health & Family Services Council

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BILL #

COUNCIL

2568

Civil Justice Council

2576

Resource & Land Management Council

2612

Health & Family Services Council

2672

Resource & Land Management Council

2688

Resource & Land Management Council

**House of Representatives
Health & Family Services Council
1999 Summary of Passed Legislation**



Committee on Children & Families

*Representative Sandra L. Murman
Representative Ken Sorensen*

Committee on Elder Affairs & Long Term Care

*Representative Nancy Argenziano
Representative Heather Fiorentino*

Committee on Health Care Licensing & Regulation

*Representative Mike Fasano
Representative Everett A. Kelly*

Committee on Health Care Services

*Representative Durell Peaden , Jr.
Representative Harry C. Goode, Jr.*

***Representative Durell Peaden, Jr., Council Chair
May, 1999***

Health & Family Services Council

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Health & Family Services Council

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COMMITTEE ON CHILDREN & FAMILIES

1999 End-of-Session Summary

Bills that Passed Both Houses

HB 655--Goals for Dependent Children in Shelter and Foster Care by Gottlieb (Passed as section 5 of CS/CS/SB 660)

House Committee(s) of Reference: Children & Families; Family Law & Children; Judiciary; Health & Human Services Appropriations

House Bill 655 creates s. 39.4085, F.S., to establish legislative findings and intent for goals for dependent children in shelter and foster care. The bill specifies 23 goals for children in the custody of the Department of Children and Family Services who have been placed in shelter or foster care. The provisions of this section establish goals and not rights. The bill provides that these provisions shall not be interpreted as requiring the delivery of any particular service or level of service in excess of existing appropriations. In addition, no person shall have a cause of action against the state or any of its subdivisions, agencies, contractors, subcontractors, or agents, based upon the adoption of or failure to provide adequate funding for the achievement of the goals by the Legislature.

The effective date of the bill is upon becoming law.

HB 869 (PCB CF 99-01)--Child Care by Children & Families; Murman and Others

House Committee(s) of Reference: Education Innovation; Finance & Taxation; Health & Human Services Appropriations

Greater emphasis on school readiness has placed demands on child care programs. The trend is to reshape child care so that it is a quality readiness experience, thus making child care arrangements look like education programs. House Bill 869 addresses child care quality improvements by making the following changes in law:

- Provides an ad valorem tax exemption for a licensed child care facility operating in an enterprise zone.
- Exempts from sales tax purchases of educational materials and educational toys by child care facilities that qualify as Gold Seal Quality Care programs and provide health insurance.
- Provides legislative intent that licensed Gold Seal Quality child care facilities shall be considered educational institutions for the purposes of qualifying for exemption for ad valorem tax.
- Expands subsidized child care eligibility to 200 percent of poverty for children of working families enrolled in the Child Care Executive Partnership Program.
- Establishes an Early Head Start Collaboration Grants program to assist local

- agencies in securing Head Start programs.
- Creates a large family child care home classification and allows these homes to participate in the Gold Seal Quality Care program.
- Establishes requirements for the observational and developmental assessment of young children.
- Increases training requirements for child care personnel to 40 hours and adds additional child developmental and observational skill requirements.
- Requires a credential for child care directors by January 1, 2003.
- Allows for the establishment of specialized child care facilities for the care of mildly ill children.
- Allows licensed Gold Seal certified child care providers to be reimbursed at the market rate for child care services for children who are eligible to receive subsidized child care.
- Creates a statewide toll-free line to provide technical assistance to child care providers regarding health, developmental disabilities and special needs issues in children.
- Requires additional training for family day care home operators.
- Requires the Department of Insurance to conduct a study regarding how to make affordable health insurance available to the staff of child care providers.

The effective date of the bill is July 1, 1999.

HB 931--Swimming Pool/Residential Child Care by J. Miller and Others

House Committees of Reference: Children & Families; Community Affairs

This bill exempts swimming pools at certain residential child care facilities from regulation by the Department of Health and from the construction standards in ch. 514, Florida Statutes (F.S.), and ch. 64E-9, Florida Administrative Code (F.A.C.). The exemption is limited to agencies that are currently exempt from licensure pursuant to s. 409.176, F.S. provided that the pool is not open to the public. Local construction standards and state standards and inspection related to operations and maintenance would continue to be applied.

The effective date of the bill is upon becoming law.

CS/HB 1777--Mental Health Services by Reddick (Passed as sections 18 though 23 of HB 2003.)

House Committees of Reference: Children & Families; Elder Affairs & Long-Term Care; Health & Human Services Appropriations

Committee Substitute for House Bill 1777 includes the following provisions:

- Requires the Department of Children and Family Services to develop strategies for diverting persons with mental illness who are arrested for misdemeanors from the criminal justice system to the mental health system.
- Requires the Louis de la Parte Florida Mental Health Institute at the University of South Florida to review the diversion strategies and report to the Legislature.
- Requires the Department of Law Enforcement and the Department of Children and Family Services to evaluate the training provided to law enforcement officers in identifying mental illness and report to the Legislature.
- Requires the Department of Children and Family Services to contract with the Florida Mental Health Institute to study extending court jurisdiction of persons with mental illness who are arrested for or convicted of misdemeanors, and to prepare a report with recommendations.
- Requires the department to report on in-jail mental health diagnostic and treatment services.
- Requires that the Louis de la Parte Florida Mental Health Institute evaluate the mental health court in Broward County and report to the Legislature.
- Provides a \$100,000 appropriation.

The effective date of the bill is July 1, 1999.

**HB 2001 (PCB CF 99-05)--Reorganization of the Department of Children and Family Services
by Children & Families; Murman and Others (Passed as CS/SB
1902 by Children & Families; Clary)**

House Committee(s) of Reference: Governmental Operations; Health & Human Services Appropriations

Committee Substitute for Senate Bill 1902 (HB 2003) waives certain provisions under s. 20.19, F.S., 1998 Supp., until July 1, 2000, in order for the Secretary of the Department of Children and Family Services to organize programs, districts, and functions of the department to achieve a more effective and efficient service delivery system and to improve accountability. The provisions of s. 20.04, F.S., will not affect the implementation of this authority. The Secretary must submit a report by August 1, 1999, describing actions that have been taken and additional plans for operating the department's programs and services under those provisions in s. 20.19, F.S., 1998 Supp., that are waived by this bill.

The bill directs the Secretary of the Department of Children and Family Services to submit a comprehensive plan for department reorganization to the Governor and the Legislature by January 1, 2000.

HB 2003 (PCB CF 99-02)--Mental Health and Substance Abuse by Children & Families; Murman and Others

House Committee(s) of Reference: Governmental Operations; Health & Human Services Appropriations

House Bill 2003 substantially rewords Part X of Chapter 397, F.S., to create a comprehensive policy framework for Children's Substance Abuse Services. The bill requires the development and implementation of services, programs, and initiatives which relate specifically to substance abuse services for children. The purpose of this bill is to improve access to services at the local level relative to the targeted populations. Children with complex needs would be given increased attention through a strengthened case management capability at the local level. Demonstration models would be implemented for delivering substance abuse services to the targeted populations through local networks involving experienced and effective service providers. This would provide the impetus for the development and implementation of uniform procedures and standards for the various levels and types of available services. Contingent upon the availability of funds, a utilization management process would be implemented to assess the use and allocation of resources within networks while districts of the department would implement a formal quality assurance program to assess the quality of services provided to children generally.

House Bill 2003 creates a school substance abuse prevention partnership grant program to encourage the development of effective substance abuse prevention and early intervention strategies with school-age children. This is a departure from the way prevention and intervention initiatives have historically been approached because it involves a full partnership effort among the state agencies of the Department of Children & Family Services, the Department of Education, the Department of Juvenile Justice, and community-based organizations. Another innovation is the development and implementation of an Internet web site for school-age children and others which would provide immediate access, consistent with the Florida Cooperative Initiative, to information on numerous topics related to prevention specifically and substance abuse generally. This would include information on resources at the local level which are available to children and their families who are in need of services.

In addition, provisions in the bill direct that strategies and community alternatives be defined in each service district of the Department of Children and Family Services for diverting from the criminal justice system to the civil Baker Act system persons with mental illness who are arrested for a misdemeanor. Each district's strategies are to be developed through written cooperative agreements between the department, the judicial and criminal justice systems, and the local mental health providers. The Louis

de la Parte Florida Mental Health Institute is directed to review strategies in Florida and other states and to recommend to the Legislature those strategies that are most effective.

House Bill 2003 also creates the Commission on Mental Health and Substance Abuse and specifies the duties of the Commission and the membership that is appointed by the President of the Senate, Speaker of the House of Representatives, and the Governor. The Legislature intends for this Commission to conduct a systematic review of the overall management of the state's mental health and substance abuse system for updating chapter 394, part IV, F.S. An interim report to the Governor and the Legislature is due no later than March 1, 2000, and the final report with statutory modifications is due to the Governor and the Legislature no later than December 1, 2000.

The effective date of the bill is July 1, 1999.

**HB 2091(PCB CF 99-06)-- Child Welfare Privatization
by Children & Families; Murman and Others (Passed as CS/CS/SB
660 by Governmental Oversight and Productivity; Children and
Families; Brown-Waite & McKay)**

House Committee(s) of Reference: Judiciary; Governmental Operations; Community Affairs; Health & Human Services Appropriations.

House Bill 2091 makes changes to s. 409.1671, F.S., and other sections of law to address the continued expansion of the privatization of child welfare services. The bill makes the following changes:

- Provides more specific duties for the child welfare estimating conference.
- Specifies certain insurance requirements and liability limits for community-based agencies and their subcontractors.
- Gives hiring preference to employees of the department whose positions are being privatized for positions in community-based child welfare agencies.
- Allows substitute care providers (e.g., foster care) to also be licensed simultaneously as family day care homes and receive both child care and foster care monthly payments for eligible children in care.
- Requires the department to give federal earnings generated by a community-based agency back to the community-based agency for the purpose of providing additional child welfare services.
- Allows AHCA to establish a targeted case management program within the geographic area served by the community-based agency providing child welfare services.

The effective date of the bill is upon becoming law.

HB 2119 (PCB CF 99-03)--The WAGES Program by Children & Families; Murman (Passed as CS/CS/SB 256 by Fiscal Policy, Commerce & Economic Opportunities; Kirkpatrick)

House Committees of Reference: Business Development & International Trade, Family Law & Children; Health & Human Services Appropriations

This bill continues the evolution of the Work and Gain Self-Sufficiency (WAGES) program by improving programs to support and providing opportunities to working recipients, improving provisions related to contracted services, strengthening governance, and increasing work participation. Major initiatives include:

- Removal of child-only and disabled cases from WAGES so that coalitions focus efforts on those with work requirements and time limits.
- Provision for an early exit incentive so that leavers have a cash reserve and to offset the disincentive for work that exists when working recipients use up lifetime benefits for small cash payments.
- Extension of benefits for applicants for Supplemental Security Income (SSI) programs.
- Rewarding work participation with more flexibility in receiving benefits. Let participants earn the use of additional months of benefits within a five-year period (without extending the lifetime limit).
- Allowing WAGES clients who are paid to be counted towards meeting staff-to-child ratio requirements for child care licensing, in order to expand job opportunities and provide equity.
- Expansion of educational services to improve job options, stability in the work force and, when needed, the ability to speak English.
- Expansion of opportunities for using Temporary Assistance to Needy Families (TANF) funds to support teen pregnancy and teen parent, domestic violence, substance abuse and mental illness programs.
- Removal of the Department of Labor and Employment Security from administrative responsibilities related to the WAGES Program.
- Allowing residential treatment for substance abuse or mental illness for WAGES participants, and waives work requirements for a limited period of time. Furthermore, creates a diversion program for families at risk of welfare dependency due to substance abuse and mental illness.
- Provision for development of procedures to assure that families losing eligibility for cash assistance receive transitional benefits to include contact by a case manager prior to the loss of benefits, and further provides for maximizing utilization of transitional Medicaid.
- Provision that certain time periods relating to the relocation assistance program will be determined by the department *by rule*.
- Allowing the department to adopt rules if federal regulations require a

- determination of needy families or needy parents to be based on financial criteria for families receiving services.
- Expanding transitional education and training to WAGES participants actively seeking employment. Expands transitional transportation to WAGES participants to sustain educational opportunities.

The effective date of the bill is upon becoming law.

COMMITTEE ON ELDER AFFAIRS & LONG TERM CARE

1999 End-of-Session Summary Bills that Passed Both Houses

CS/HB 213--Guardianship by Real Property and Probate; Crow and Others

House Committees of Reference: Elder Affairs & Long-Term Care; Real Property & Probate; Governmental Rules & Regulations; Health & Human Services Appropriations

This bill creates the Statewide Public Guardianship Office (Office) within the Department of Elder Affairs (DOEA). The responsibility for oversight of existing public guardianship offices will be removed from the courts and transferred to the Office. The Office may, after consultation with the chief judge of the circuit and others, create an "office of public guardian". If that Office is established, DOEA must provide a list of "best qualified" persons to serve in that capacity, and appoint one of those persons to serve as the circuit public guardian. The Office must oversee the public guardian offices, conduct a number of reviews, set up a training program, and seek innovative ways of meeting the state's guardianship needs. Each local public guardian will be required to prepare a budget, including information on all funds locally generated, and submit it to the Office. That budget information will be included in the Legislative budget request submitted by the Department of Elderly Affairs.

The Statewide Public Guardianship Office must report annually to the Governor, the Legislature and the Chief Justice of the Supreme Court about its progress in meeting its statutorily defined goals. The report must include a plan including alternatives to the current arrangements for meeting the state's guardianship needs. The Office is permitted to conduct or contract for demonstration projects.

The court may require an appointed general or special master to conduct random field audits, and extends from 15 to 30 days the time within which the court has to review the annual guardianship report. Additionally, the clerk of court is to receive the results of

the federal and state fingerprint background checks on affected guardians, and requires that the court consider the results of the required investigations in appointing a guardian.

The Executive Director of the Office is specifically authorized to contract with, not just appoint, a public guardian. Credit and criminal background checks on a spouse or an adult child who is appointed as a guardian are required. All persons who are considered for appointment as a public guardian must undergo background checks. Persons who are related to the ward, within certain specified relationships, are allowed to petition for removal of the guardian.

The effective date of the bill is October 1, 1999.

CS/HB 219 Public Records Exemption by Crow

House Committees of Reference: Elder Affairs & Long Term Care; Real Property and Probate; Governmental Operations

This bill requires agencies, and the court and its agencies, to provide the Statewide Public Guardianship Office with any medical, financial, or mental health records necessary for that office to perform certain specified duties. Any confidential or exempt information so received by that office must continue to be held confidential or exempt, as otherwise provided by law.

CS/HB 219 also creates a public records exemption “for all other records held by the Statewide Public Guardianship office relating to the medical, financial, or mental health of vulnerable citizens who are elderly persons or disabled adults ... persons with a developmental disability ... or persons with a mental illness”

The effective date of the bill is October 1, 1999.

CS/HB 645 Unlicensed Assisted Living Facility by Committee on Elder Affairs & Long Term Care; Prieguez and Others

House Committees of Reference: Elder Affairs & Long Term Care; Health Care Licensing & Regulation; Crime & Punishment; Health & Human Services Appropriations

This bill amends Section 400.408, Florida Statutes, relating to assisted living facilities (ALFs). The proposal clarifies the criminal and administrative sanctions against unlicensed assisted living facilities. Specifically, sanctions are imposed on persons who operate unlicensed facilities and those licensed ALFs affiliated with unlicensed facilities.

Currently, section 400.408(1)(b), F.S., provides that anyone who owns, operates, or maintains an unlicensed facility is committing a third degree felony. This bill provides that each day of unlicensed operation constitutes a separate offense and deletes the provision that operators who have applied for licensure within 10 days after agency notification may use this as an affirmative defense against criminal prosecution.

This bill similarly deletes provisions permitting unlicensed facilities to avoid administrative sanctions by applying for a license. Owners or administrators who have interest in more than one facility and fail to license any one of them may be subject to a fine imposed by the Agency for Health Care Administration. The grace period for imposing a \$500 per day fine is five days.

The bill adds adult family care homes to the list of facilities that require firesafety standards. The State Fire Marshal, Department of Health, and Agency for Health Care Administration will review and approve the minimum safety procedures for emergencies.

The effective date of the bill is October 1, 1999.

HB 771 Hospices/Elderly Affairs Department (Ch. 99-139, L.O.F.) by Bilirakis (Passed as SB 1514 by Klein)

House Committees of Reference: Elder Affairs & Long Term Care; Health Care Licensing & Regulation

This bill amends part VI, chapter 400, F.S., relating to hospice, to expand and specify the Department of Elder Affairs' (DOEA) rule-making authority. It clarifies that a hospice may contract for physician services, and that a hospice patient living in a residential environment subject to state regulation is considered to be a hospice patient. The hospice program is then responsible for the delivery of hospice care and services to such patient. There are currently 40 licensed hospices in Florida.

The effective date of the bill is July 1, 1999.

HB 1131 Memory Disorder Clinic by Detert (Passed as Section 1 of HB 1971 by Elder Affairs & Long Term Care and Argenziano)

House Committees of Reference: Elder Affairs & Long Term Care; Health Care Services; Health & Human Services Appropriations

This bill amends section 430.502, F. S. to designate a memory disorder clinic at

Sarasota Memorial Hospital in Sarasota County.

The effective date of the bill is July 1, 1999.

HB 1971 Nursing Home Facilities by the Committee on Elder Affairs & Long Term Care; Argenziano; and Others

House Committees of Reference: Elder Affairs & Long Term Care; Health & Human Services Appropriations.

Information to Assist Residents and Families: Ombudsman

The bill requires the Office of the State Long-Term Care Ombudsman to establish a statewide toll-free telephone number to enable nursing home residents, their families or friends, nursing home employees, or any member of the public to submit complaints concerning nursing home facilities.

Information to Assist Residents and Families: Consumer Satisfaction Surveys

The Agency for Health Care Administration (agency or AHCA), or its contractor, is required, in consultation with the nursing home industry and consumer representatives, to develop an easy-to-use consumer satisfaction survey for nursing home residents to express their reaction to the services and the care they receive in the facility in which they reside. Further all licensed nursing homes participate in assessing consumer satisfaction. The consumer information must be available electronically on the Internet and, slightly abbreviated, in print.

Each facility must display a poster with phone numbers for the several specified consumer protection Hotlines, as well as the licensure agencies.

Resident Care

AHCA must adopt rules that provide minimum staffing requirements and allow properly trained staff to assist residents with eating. Each facility must appoint a Florida-licensed physician as medical director. The bill authorizes the agency to adjust targets in the patient care component of the per diem rate to allow an additional \$31,681,376 appropriated in the bill to be used to reimburse nursing homes for hiring certified nursing assistants and licensed nurses: staff who provide direct care to residents.

Resident's Transfer & Discharge

It is grounds for disciplinary action against a nursing home administrator to discharge or transfer a resident for a reason other than a reason specifically authorized.

Regulatory Changes

The agency must implement an “early warning system” that uses available information to detect conditions that could be detrimental to the health, safety, and welfare of residents. The agency must employ nurses as quality-of-care monitors in each AHCA area.

Applicants for nursing home facility licensure must submit information about any civil verdict or judgment relating to medical negligence, violation of residents’ rights, or wrongful death involving the applicant that was rendered within the preceding ten years and copies of any new verdict or judgment involving the applicant relating to such matters within 30 days after filing with the clerk of the court and such information must be maintained in the facility’s licensure file and an AHCA database that is available to the public.

Facilities must increase staff, beyond the minimum required by law, when AHCA administratively sanctions the facility for care-related deficiencies. The facility is subject to a \$500 per day fine for each day staffing remains below the level required by AHCA.

Gold Seal Program & Panel for Excellence in Long Term Care

The “Gold Seal” Program for recognition of nursing home facilities demonstrating excellence in long-term care is established under the auspices of the Panel on Excellence in Long-Term Care in the Executive Office of the Governor. The nursing home rating system is repealed and the Nursing Home Advisory Committee is abolished.

Teaching Nursing Home

AHCA is authorized to implement a teaching nursing home pilot project providing for a comprehensive multidisciplinary program of geriatric education and research.

Pharmacy Benefits

The bill provides substantial cost savings for residents with pharmacy benefits under the Veteran’s Administration (VA), Champus, or some other pension plans, by requiring nursing facility pharmacists to repackage resident’s bulk prescriptions. Nursing homes and pharmacists who repackage these prescriptions are given reasonable liability protection.

Penalties for Serious Violations

The maximum amount of fines for serious violations is raised from \$10,000 to \$25,000.

Maximum fines for class two violations are raised from \$5,000 to \$10,000, and the maximum fine for a class three violation is raised from \$1,000 to \$2,500.

Studies

The bill creates a panel on Medicaid reimbursement to consider reimbursement of nursing home facilities and to recommend changes to accomplish certain specified objectives. The Department of Elderly Affairs is to study, or contract for a study, of the major factors affecting the recruitment, training, employment, and retention of qualified certified nursing assistants within the nursing home industry.

Other Provisions

Authorizes a memory disorder clinic at Sarasota Memorial Hospital in Sarasota County. The Department of Elderly Affairs and the Department of Children and Family Services are authorized to initiate demonstration projects of day treatment services to seniors and the developmentally disabled.

The effective date of the bill is July 1, 1999.

HB 2121 Public Records/Nursing Homes by Elder Affairs & Long Term Care, and Argenziano

House Committees of Reference: Elder Affairs & Long Term Care; Government Operations

HB 2121 provides that the information contained in any Agency for Health Care Administration (agency) record of a quality-of-care monitoring visit to a nursing home facility, except for specific exclusions pertaining to the reporting by a quality-of-care monitor of conditions which threaten the health or safety of a resident, is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

House Bill 2121 also sets forth the public necessity for the exemption. Failure to protect the confidentiality of information gathered by the quality-of-care monitors would lead to a reluctance on the part of residents and staff of nursing facilities and others to provide accurate information which may serve as a basis for identifying and improving quality-of-care concerns before they develop into health or safety violations.

The effective date of the bill is October 1, 1999.

HB 2131 End-of-Life Care (Passed as CS/CS/SB 2228 by Klein) by Elder Affairs & Long Term Care; Argenziano & Others

House Committees of Reference: Elder Affairs & Long Term Care; Judiciary; and Health & Human Services Appropriations

This bill removes the statutory requirement that persons who have made an advance directive or designated a health care surrogate be terminally ill before life-prolonging procedures can be discontinued and brings the statute into congruence with Florida case law. Instead persons who are diagnosed as either “terminal” or in an “end-stage condition” or in a “persistent vegetative state” can have life-prolonging procedures withdrawn or withheld in compliance with their wishes. Civil liability protection is expanded to include hospital emergency personnel, nursing home staff, assisted living facility staff, home health agency personnel, hospice care teams, and adult family care home providers who honor Do-Not-Resuscitate Orders (DNRO).

The bill provides that for decedents who completed an organ donation card or otherwise expressed, in writing, their decision to make an anatomical gift, the surrogate, if one was designated and is reasonably available, may consent to the gift. If the decedent did not leave written evidence of intent of make an anatomical gift or if no surrogate was designated, or if the surrogate is not reasonably available, the law remains as it is now with the list of decision makers specified in ch. 732, F.S. The bill provides that an advance directive may include an anatomical gift.

House Bill 2131 expands provisions relating to transfer of a patient in instances of ethical conflict to apply to all treatment decisions, not just decisions to forego life-prolonging procedures. It adds a new provision to create a procedure for discontinuing life-prolonging procedures for persons in a persistent vegetative state who have no advance directive and no person to act as proxy.

It allows medical and health care professionals to substitute a class in end-of-life care for either the required class in domestic violence or HIV, if they completed both classes in the previous re-licensure or re-certification cycle.

The effective date of the bill is October 1, 1999.

COMMITTEE ON HEALTH CARE LICENSING & REGULATION

1999 End-of-Session Summary Bills that Passed Both Houses

CS/HB 35--Orthotics/Prosthetics/Pedorthics by Health Care Licensing & Regulation; Ball and Others (Passed

as SB 248 by Kurth)

House Committee(s) of Reference: Health Care Licensing & Regulation; Business Regulation & Consumer Affairs; Health and Human Services Appropriations

This bill provides an exemption from the Bachelor of Science degree and examination requirements (grandfather clause) for those who have practiced orthotics (five years) or prosthetics (five years) in this state and applied for licensure prior to March 1, 1998. The educational requirements for a pedorthist are a high school diploma or its equivalent and practice in this state for two years prior to March 1, 1998.

It provides an exception for applicants that did not meet the grandfather date contained in s. 468.805, Florida Statutes, as of March 1, 1998. It allows qualifying applications to be filed up to July 1, 1999. Depending upon when the bill becomes law, this would allow a period of approximately 60 days for anyone who failed to apply by March 1, 1998, to apply for licensure without meeting the educational and examination requirements. The Department of Health estimates that 20 applicants qualified, but missed the March 1, 1998 date.

The effective date of the bill is upon becoming law.

HB 91--Controlled Substances by Stafford; Pruitt and Others (Passed as CS/SB 152 by Criminal Justice; Brown-Waite and Others)

House Committee(s) of Reference: Health Care Licensing & Regulation; Crime & Punishment; Criminal Justice Appropriations

This bill amends ch. 893, Florida Statutes, by adding Gamma-hydroxy Butyric Acid (GHB) to Schedule II and Ketamine to Schedule III, thereby clarifying the penalties for unlawful possession and sale. GHB has strong sedative effects and has been a known drug of abuse. Ketamine is an anesthetic drug used primarily in veterinary medicine. It is known to be abused at teen "rave" parties.

This bill places in law the Attorney General's emergency rules that expire in June of 1999 which makes these two drugs unlawful. The emergency rules were adopted by the Attorney General because these two drugs presented an immediate danger to the public health, safety, and welfare.

Technical changes are made to correct cross references from the Department of Business and Professional Regulation to the Department of Health and to replace Dextropropoxyphene with Propoxyphene.

The effective date of the bill is July 1, 1999.

HB 245--Public Records Exemptions by Goode and Others (Passed as SB 674 by Brown-Waite)

House Committee(s) of Reference: Health Care Licensing & Regulation;
Governmental Rules & Regulation; Health & Human Services Appropriations

This bill exempts information concerning patients of home medical providers from the public records law and exempts information in connection with background screening of prospective employees from the public records law. Such information, when obtained by the home medical equipment supplier or by the Agency for Health Care Administration is exempt from public records released without the individual's consent. Provides for repeal on October 2, 2004, pursuant to the Open Government Sunset Review Act of 1995.

The bill expresses necessity of these exemptions on the basis of the potential shortage of applicants for employment with medical equipment suppliers if information of past misbehavior from juvenile records, criminal records, or central abuse registry are not kept confidential. This bill accompanies HB 247, which provides for licensure by the Agency for Health Care Administration of home medical equipment providers.

The effective date of the bill is July 1, 1999.

HB 247--Home Medical Equipment Providers by Goode and Others (Passed as CS/SB 276 by Health, Aging and Long-Term Care; Brown-Waite)

House Committee(s) of Reference: Health Care Licensing & Regulation; Health Care Services; Governmental Rules & Regulation; Health & Human Services Appropriations

The bill requires licensure and establishes reasonable standards that home medical equipment [HME] providers must meet in order to conduct business in Florida. It defines HME providers as those who provide durable medical equipment and services related to the use of this equipment in a patient's home. It creates a two year licensure period with exemptions for certain entities already subject to licensure under Florida law. The exemptions include nursing homes, home health agencies, intermediate care facilities, hospitals and ambulatory surgical centers, and certain other licensed health care providers.

The bill requires that HME personnel who instruct patients on the operation of equipment to be trained. HME providers are to inform patients of operating hours,

equipment warranties, and complaint procedures for after normal business hours. HME suppliers are required to provide equipment and services in accordance with a patient's plan of care or prescription, honor warranties, maintain equipment, and keep patient records.

The Agency for Health Care Administration (Agency) is designated as the regulatory entity, and the bill creates authority to charge fees, conduct applicant criminal history and abuse registry background checks, perform on-site inspections, and assess administrative penalties.

This bill has an estimated fiscal impact of \$613,721 and 13 FTE's on state government, no fiscal impact on local government and an indeterminate impact on the private sector. There is an appropriation of \$701,370 from the Health Care Trust Fund and 13 positions to implement the provisions of this bill.

The effective date of the bill is July 1, 1999.

**CS/HB 319--Pharmacy Practice
by Health Care Licensing & Regulation; Gay (Passed as sections
118, 119 and 172 of HB 2125 by Health Care Services; Peaden &
Others)**

House Committee(s) of Reference: Health Care Licensing & Regulation; Health Care Services; Insurance; Health & Human Services Appropriations

CS/HB 319 makes a number of changes to ch. 465, F.S., relating to the practice of pharmacy. It amends the statutory definition of the "practice of the profession of pharmacy" to include "other pharmaceutical services" which means evaluation and monitoring of a patient's health as it relates to drug therapy and assisting in the management of such drug therapy.

Correctional facilities are added to the institutional practice sites where return of unit-dose medications for reuse is permitted. Increases the maximum administrative fine from \$1,000 to \$5,000 per offense.

Section 499.012, F.S., is amended to provide for certain governmental transfers of drugs between identified entities, and a significant renumbering of the section is provided.

The effective date of these provisions is July 1, 1999.

HB 431--Medical Devices/Registration by Lynn and Others (Passed as SB 1396 by Burt)

House Committee(s) of Reference: Health Care Licensing & Regulation; Business Regulation & Consumer Affairs; Health & Human Services Appropriations

This bill provides for the exemption of certain Class I, II, and III medical devices that are currently required to be registered and a fee paid to the Department of Health.

Currently, medical device manufacturers must register medical devices manufactured in Florida with the Department of Health. This includes Class I, Class II, and Class III medical devices. The two-year registration fee is \$20 per separate and distinct product. Variations in physical characteristics such as size, package, shape, or color and the same medical device marketed under different brand names are considered identical products and do not require payment of the registration fee.

Manufacturers of Class I devices are exempted from paying the fees, but are required to register. Manufacturers of Class II and Class III devices are exempted from registering and paying the fees. Most of the administrative aspects of registration for Class II and Class III devices will remain in effect since a device manufacturer must submit documentation (pre-market notification letter or pre-market approval number) for these medical devices manufactured in Florida. Also, by exempting registration of these two classes of devices, the manufacturer will not be eligible to receive a Certificate of Free Sale from the department. However, a similar certificate is available from the federal government, which serves the same purpose as the Florida Certificate of Free Sale.

The department estimates that approximately 2,750 separate and distinct medical devices are registered with the department annually. Thus, on an annual basis, the Drug, Devices and Cosmetics Trust Fund will not collect annual fees of an estimated \$27,500.

The effective date of the bill is July 1, 1999.

HB 489--Body-Piercing Salons by Valdes and Others

House Committee(s) of Reference: Health Care Licensing & Regulation; Business Regulation & Consumer Affairs; Governmental Rules & Regulations; Health & Human Services Appropriations

This bill requires the Department of Health to license body-piercing salons and to adopt

rules to regulate such facilities. Exemptions are provided for health care professionals regulated by the department as long as the person does not hold himself out as a body-piercing establishment. Specific licensure requirements are provided for body-piercing salons, and the department is required to conduct an annual inspection of salons.

The bill prohibits the body-piercing of a minor without the notarized consent of a parent or legal guardian, and the body-piercing of a minor under the age of sixteen (16) is prohibited unless the minor is accompanied by a parent or legal guardian.

The department estimates the licensure of 205 permanent salons the first year. Such salons are subject to an annual licensure fee of \$150. Also, the department estimates the licensure of 55 temporary salons at an annual license fee of \$75. Monies collected shall be received by the department and payable to the county health department in the county where the establishment is located.

The bill provides for prohibited acts and penalties, authorizes the imposition of fines, and authorizes departmental enforcement. Administrative fines are deposited into the County Health Department Trust Fund for use in providing services as specified in the bill.

The effective date of the bill is October 1, 1999.

HB 699--Athletic Trainers (PCB HCL 99-02) by Health Care Licensing & Regulation; Fasano

House Committee(s) of Reference: Business Regulation & Consumer Affairs; Health & Human Services Appropriations

This bill replaces the Department of Health's 7-member Council of Athletic Training with a 9-member Board of Athletic Training, appointed by the Governor and confirmed by the Senate. The membership of the board includes: five (5) athletic trainers; one (1) medical or osteopathic physician; one (1) chiropractic physician; and two (2) consumer members.

The bill effectively transfers to the board a number of powers and duties presently performed by the Department of Health, including matters relating to examinations and continuing education, as well as rulemaking, licensure fee, and disciplinary authority.

Regulation of athletic trainers was established in 1994 under the jurisdiction of the Department of Business and Professional Regulation, and was transferred to the Department of Health in 1997. Since implementation, there has been no discipline taken by the Department of Health. The department implemented continuing education requirements effective July 1998, requiring 24 hours per biennium.

By the end of this fiscal year (June 1999), it is estimated that over 1,000 athletic trainers will be licensed (986 were licensed as of January 1999).

The Department of Health reports that to add two (2) additional board members would create an increase in expenses of \$7,732 the first year, and \$6,560 the second year.

The effective date of the bill is October 1, 1999.

HB 735--Health Facilities Authorities Law by Farkas and Others

House Committee(s) of Reference: Health Care Licensing & Regulation; Finance & Taxation

This bill revises the provisions related to the power of a health facility authority created under ch.154, Part III, Florida Statutes, to acquire accounts receivable from other health care facilities.

It provides that such accounts receivable program may include the financing of accounts receivable acquired by a health facility from other not-for-profit health care corporations whether or not controlled by or affiliated with such health care facility and whether or not located within or without the geographical limits of the state.

According to the Agency for Health Care Administration, this bill will not have a fiscal impact on the state, local government or the private sector in general.

The effective date of the bill is upon becoming law.

HB 917--Treatment of Life-threatening Wounds by Cantens and Others (Passed as SB 1182 by Silver)

House Committee(s) of Reference: Health Care Licensing & Regulation; Crime & Punishment; Health Care Services

Currently, s. 790.24, F.S., requires health care providers to report to the sheriff's department any gunshot wound or any wound indicating violence that they treat, regardless of the severity of the wound. House Bill 917 requires physicians, nurses, or their employees, and any employee of a hospital, sanitarium, clinic, or nursing home to report to the sheriff's department only gunshot wounds and other life-threatening injuries indicating an act of violence.

The bill provides that a health care practitioner commits a first degree misdemeanor for

failing to report a gunshot wound or a life-threatening injury indicating an act of violence. Thus, a health care practitioner would not commit a crime for failing to report an injury indicating violence (other than a gunshot wound) if the injury was not life-threatening.

The Domestic Violence Task Force on Fatality Prevention within the Department of Community Affairs reports:

A strict interpretation of the statute requires all wounds indicating violence to be reported creating a situation that may be more detrimental to a domestic violence victim who could be endangered if law enforcement receives a report. Also the victim may forego necessary medical treatment in order to avoid being reported. This bill will allow health care practitioners to report only those wounds that result from a gunshot or knife or other life-threatening injury indicating violence.

An amendment was adopted which provides that s. 790.24, F.S., does not affect any requirement a person has to report abuse pursuant to ch. 39, F.S., concerning proceedings relating to children, or ch. 415, F.S., regarding protection from abuse, neglect, and exploitation.

The effective date of the bill is July 1, 1999.

HB 923--Home Health Agencies/Nurse Registry by Prieguez (Passed as Sections 1 and 10 of CS/SB 2360 by Health, Aging, and Long-Term Care; Thomas)

House Committee(s) of Reference: Health Care Licensing & Regulation; Insurance;
Health & Human Services Appropriations

This bill adds the definition of "home health aide" to the Home Health Services Act in s. 400.462, F.S. A very similar definition is contained in Section 1 of CS/SB 2360.

In addition, the bill authorizes nurse registries to refer home health aides for contract services as independent contractors. Also requires a registered nurse to make monthly visits in a patient's home when the patient is receiving home health aide care.

Further, the bill deletes the dual registry requirement in nurse registries. At present, certified nursing assistants or persons providing sitter, companion, or homemaker services must be registered with the Agency for Health Care Administration as well as within the nurse registry.

The effective date of CS/SB 2360 is October 1, 1999.

CS/HB 965--Telehealth Task Force

by Health Care Licensing & Regulation; Boyd (Passed as Section 175 of HB 2125 by Health Care Services; Peaden and Others)

House Committee(s) of Reference: Health Care Licensing & Regulation; Business Regulation & Consumer Affairs

This bill establishes a Task Force on Telehealth. The Secretary of Health is directed to appoint the members of the task force and representation will include persons in the various medical and allied health professions, as well as other affected health care industries.

The task force will review and research various health care telecommunications and electronic communications providing health care information. In addition, the task force will identify laws, regulations, and reimbursement practices relating to telehealth practice. The bill directs the Task Force to submit a report of findings and recommendations to the Legislature and Governor by January 1, 2000.

The effective date of HB 2125 is July 1, 1999.

HB 971--Citrus County/Hospitals & Nursing Homes by Argenziano

House Committee(s) of Reference: Health Care Licensing & Regulation; Community Affairs

This bill codifies all prior special acts relating to the Citrus County Hospital Board in Citrus County into a single act.

The bill removes references to freeholders and inserts voters.

The effective date of the bill is upon becoming a law.

HB 981--Dentistry by Morroni

House Committee(s) of Reference: Health Care Licensing & Regulation

House Bill 981 requires dental appointees to the Board of Dentistry to have been

actively engaged in the clinical practice of dentistry for at least five years immediately preceding the appointment, to be a dentist whose primary source of income is derived from direct patient care, and to remain primarily in clinical practice for the duration of the appointment. This requirement only applies to appointments made on or after July 1, 1999. Authorizes appointment of persons to the Board of Dentistry who are connected with a dental college or community college if no more than five percent of that person's income is derived from that relationship with such college.

Requires work orders of unlicensed persons and registered dental laboratories providing services to licensed dentists or other registered dental laboratories to be in a form prescribed by rule of the board rather than the Department of Health. Eliminates requirements that such forms be supplied by the department and assigned to individual dentists.

The advertising section is expanded to include advertising of specialties approved by the Board of Dentistry or the American Dental Association. Prohibits a dentist from disclosing that his or her practice is limited to a specialty unless the dentist has attained membership in or credentialed by an accrediting organization. Requires notice to consumers of specialty areas and organizations. Dentists who wish to advertise their accrediting organization and have met the prescribed criteria, may do so if the dentist incorporates in capital letters or some other manner clearly distinguishable from the rest of the announcement, solicitation, or advertisement a clarifying statement.

The effective date of the bill is July 1, 1999.

HB 989--Physician Assistants/Licensure by C. Green

House Committee(s) of Reference: Health Care Licensing & Regulation

This bill allows any student, who completed all coursework requirements of the physician assistant program offered through the Florida College of Physician's Assistants prior to its closure in August of 1996, to sit for the special physician assistant exam developed by the department.

Prior to taking the exam, such applicant must successfully complete any clinical rotations that were not completed prior to termination of the program and any additional clinical rotations, not to exceed six months, as determined necessary by the Council of Physician Assistants.

The Boards of Medicine and Osteopathic Medicine will determine, based on recommendations from the Physicians Assistant Council, the facilities where such clinical rotations may be completed, and what constitutes successful completion. Such

requirements shall be comparable to those established by accredited physician assistant programs. This special provision for taking the exam is repealed July 1, 2001.

According to the Department of Health, this bill will have no fiscal impact on the state, local government, or the private sector in general. There will be a cost of \$550 per student for each exam taken. The maximum number of students eligible for this provision is estimated at 40.

The effective date of the bill is July 1, 1999.

HB 1031--Physician Assistants by Goode

House Committee(s) of Reference: Health Care Licensing & Regulation; Health Care Services

HB 1031 includes physician assistants in s. 39.304, F.S., as health care practitioners who are allowed to perform and authorize medical and radiological examinations on children who are suspected to be victims of abuse, abandonment or neglect, along with physicians and advanced registered nurse practitioners.

It modifies provisions relating to the existing formulary committee and requires the committee to meet at least twice a year and establishes four-year committee membership terms. Also, it requires the Boards of Medicine and Osteopathic Medicine to adopt the revised formulary and any future changes at their next regular meeting following receipt of the formulary from the committee.

The effective date of the bill is July 1, 1999.

CS/HB 1073--Recreational Sport Diving by Health Care Licensing & Regulation; Edwards (Passed as Section 199 of HB 2125 by Health Care Services; Peaden and Others)

House Committee(s) of Reference: Health Care Licensing & Regulation; Water & Resource Management; Governmental Rules & Regulations; Health & Human Services Appropriations

The strike everything amendment adopted in the Water & Resource Management Committee was the language amended onto HB 2125. The section establishes allowable maximum levels of contamination in compressed air used for recreational sport diving based on levels of contaminants allowed by the Grade "E" Recreational Diving Standards of the Compressed Gas Association. The bill requires the quarterly

testing of compressed air by a laboratory accredited by the American Industrial Hygiene Association or the American Association for Laboratory Accreditation with results submitted to the Department of Health. A certificate is required to be conspicuously posted certifying that the compressed air meets the standards for contaminant levels established by the department. Establishes misdemeanor penalties for failure to comply with the provisions of the bill.

The effective date of this section is January 1, 2000.

HB 1081--Public Records/Health Care Employees by Representative Goodlette

House Committee(s) of Reference: Health Care Licensing & Regulation;
Governmental Operations

This bill creates a public records exemption relating to the confidentiality of certain personal identifying information regarding employees of certain health care facilities (hospitals and ambulatory surgical centers). The home addresses, telephone numbers, social security numbers, and photographs of active and former employees are exempt from the public records law.

Also, the home addresses, telephone numbers, social security numbers, photographs, places of employment of spouses and children, and the names and location of schools and day care facilities attended by the children of such employees are exempt from the public records law.

The bill includes the statement of public necessity as required by s. 24(a), Art. I of the Florida Constitution. The justification for the exemption is the fact that the Legislature finds that these exemptions are a public necessity, and that it would be an invasion of a person's privacy for such personal, sensitive information contained in these facilities to be publicly available. Employees of these facilities have been threatened and instances have occurred in which patients have inflicted injuries upon health care providers which have resulted in the death of the provider.

These exemptions are subject to the Open Government Sunset Review Act of 1995 and shall stand repealed on October 2, 2004.

The effective date of the bill is July 1, 1999.

HB 1095--Broward County/Broward Hospital District by Wasserman-Schultz (Passed as SB 2612 by Campbell)

House Committee(s) of Reference: Health Care Licensing & Regulation; Community

Affairs; Governmental Operations; Finance & Taxation

This bill amends ch. 24415, Laws of Florida, 1947, to provide that the South Broward Hospital District is not to be considered a “public body” or “taxing authority” as those terms are used in part III of ch. 163, Florida Statutes. A “public body” or “taxing authority,” pursuant to s. 163.340(2), Florida Statutes, “means the state or any county, municipality, authority, special taxing district..., or other public body of the state, except a school district.”

It further provides that this provision shall apply to community redevelopment agencies established after January 1, 1998, but shall not apply to any community redevelopment agencies established prior to January 1, 1998.

This act shall take effect upon becoming a law, and shall apply retroactively to December 31, 1998.

**CS/HB 1431--Emergency Medical Services
by Health Care Licensing & Regulation; Casey and Others (Passed
as Sections 29-34 of HB 2125 by Health Care Services; Peaden and
Others)**

House Committee(s) of Reference: Health Care Licensing & Regulation;
Governmental Rules & Regulations; Health & Human Services Appropriations

The committee substitute was added onto HB 2125 to provide statutory authority for current rules that relate to the regulation of emergency medical technician and paramedic education programs, staffing of advanced life support transport vehicles, and the provision of a patient’s prehospital medical record to the hospital that receives the patient.

The sections provide authority to the Department of Health requiring the department to process applications, approve or deny programs, and perform site visits. The requirements are to be established to ensure ongoing consistency and continuity in the education programs for emergency medical technicians and paramedics.

Authority is established in the Department of Health for recertification training for emergency medical technicians and paramedics. Recertification training must cover training for adult and pediatric clinical care. The approval process includes sufficient latitude for medical directors of emergency medical service licensees to prescribe training to meet local needs.

Provides rule authority to the Department of Health relating to a licensee’s security and storage of controlled substances, medications, and fluids, consistent with chapter 499,

F.S. The section also provides rule authority to require application for licensure or renewal of a license to be made under oath.

The effective date of these sections is July 1, 1999.

**CS/HB 1467--Health Care Practitioners/Regulation
(PCB HCL 99-03)**

**by Business Regulation & Consumer Affairs; Health Care
Licensing & Regulation; Fasano and others** (Passed in various
sections of HB 2125 by Health Care Services, Peaden and Others)

House Committee(s) of Reference: Business Regulation & Consumer Affairs; Health
& Human Services Appropriations

This bill relates to the various health care practitioners of the Department of Health. It makes a number of changes to ch. 455, the administrative chapter for all medical “health care practitioners”, and to the various practice acts of the approximately 37 professions regulated by the department.

The more substantive changes expand the opportunity for the regulatory boards to discipline practitioners for certain violations such as: sexual misconduct; failing to comply with the requirements of profiling and credentialing; emergency suspension of their license for testing positive for drugs without a legitimate medical reason; failing to inform patients about their rights; and increases fine caps for disciplinary actions in several professions.

House Bill 2125 includes a number of additional changes. A few of the major differences/additions are: the Council on Respiratory Care is converted to a Board; a task force on Telehealth is included; a study of clinical laboratory services for kidney dialysis is added; the definitions of the practice of medicine, osteopathic medicine, and dentistry are deleted; the CE provisions and nurse title protection of CS/HB 965 and CS/HB 1527 are included; the adverse incident/office surgery standards are included; treble damages for willfully disclosing confidential information is added; language providing that there is no presumption that a blood-borne infection is a job-related injury is added; a provision that DOH may not include final disciplinary action taken by a licensed hospital or ambulatory surgery center in a practitioners profile is included; and an extension of the authority for the department to give examinations to certain foreign-licensed doctors is added.

The effective date of the bill is July 1, 1999, unless otherwise provided.

**CS/HB 1527--Health Department/Professions/Licensing
by Health Care Licensing & Regulation; Boyd (Passed as sections
60, 74, 76, 84, and 183 of HB 2125 by Health Care Services; Peaden
and Others)**

House Committee(s) of Reference: Health Care Licensing & Regulation;
Governmental Rules & Regulation; Health & Human Services Appropriations

This bill authorizes the Department of Health, if there is no regulatory board, to adopt rules to establish the criteria for continuing education courses required for renewal of a license. In addition, the bill provides that a licensee failing to satisfy continuing education requirements shall be subject to a citation and assessment of a fine and may be required to take additional hours of continuing education.

This bill also provides that it is a first degree misdemeanor if an individual uses the title of “nurse”, unless they are licensed or certified to perform nursing services.

Additionally, the bill provides that the definition of “health care practitioner” includes persons who are applying for a health care license or registering as a physician intern, resident, or fellow and exempts persons who are registered or applying for registration from the profiling and credentialing requirements needed for physician licensure.

The effective date of HB 2125 is July 1, 1999.

**HB 1687--Indian River County Hospital District
by Sembler**

House Committee(s) of Reference: Health Care Licensing & Regulation; Community
Affairs

This bill amends ch. 61-2275, Laws of Florida, to require a binding voter referendum prior to the sale of all or substantially all of the facilities which make up the Indian River Memorial Hospital. The referendum shall be held in accordance with: the bond referendum procedure set forth in s. 100.201, Florida Statutes; the procedure for a mail ballot set forth in s. 101.6101, Florida Statutes; or any other comparable procedure set forth in then existing Florida law. The specific procedure to be utilized shall be determined by the district in the resolution calling for such referendum.

The effective date of the bill is upon becoming law.

HB 1703--Medical Practice/Telemedicine

by Kyle (Passed as section 175 of HB 2125 by Health Care Services; Peaden and Others)

House Committee(s) of Reference: Health Care Licensing & Regulation; Health & Human Services Appropriations

This bill establishes a Task Force on Telemedicine to research and make recommendations regarding the delivery of health care services across state lines. The task force members will be appointed by the Secretary of Health and a report with the task force findings is due to the Legislature and Governor by January 1, 2000.

The effective date of HB 2125 is July 1, 1999.

CS/HB 1795--Assisted Living Facility/Temperature

by Elder Affairs & Long-Term Care; Sobel and Others (Passed as sections 14 & 15 of CS/HB 2360 by Health, Aging & Long-Term Care; Thomas)

House Committee(s) of Reference: Health Care Licensing & Regulation; Elder Affairs
& Long-Term Care; Health & Human Services Appropriations

The committee substitute was amended onto CS/SB 2360 to require the Agency for Health Care Administration, in consultation with the Department of Children and Family Services and the Department of Elder Affairs, to adopt and enforce rules related to the cooling of nursing home facilities.

Further, it requires the Department of Elder Affairs, in consultation with the Agency for Health Care Administration, the Department of Children and Family Services, and the Department of Health, to adopt rules, policies, and procedures related to the cooling of assisted living facilities.

The effective date of these sections is October 1, 1999.

**HB 1847--Health Care Practitioners/Regulation (PCB HCL 99-07)
by Health Care Licensing & Regulation; Fasano and Others**
(Passed as sections 92, 101, 197 and 198 of HB 2125 by Health Care Services; Peaden and Others)

House Committee(s) of Reference: Judiciary; Governmental Operations

This bill provides that effective January 1, 2000, medical and osteopathic physicians must file reports on adverse incidents that occur as a result of office surgery in their offices. The reports must be filed within 15 days after the occurrence of the adverse incident. These reports are filed with the Department of Health and will be used to determine if disciplinary action is required against a practitioner. Originally, these reports were to be confidential, but the public records bill (HB 1843) exempting these documents died in the Senate, and similar legislation was not passed.

In addition, the bill grants the department authority to develop rules relating to standards of practice for office surgery and provide for registration and inspection of offices where levels two and three office surgery are performed. The department will inspect the offices annually unless the office is accredited by a national recognized accrediting agency or an accrediting organization approved by the appropriate board.

This will enable the department to determine compliance with minimum safety standards in office surgery, instead of being dependent upon patient complaints for information about unsafe surgical offices. This will enable the department to respond immediately to adverse incidents.

The effective date of sections 92, 101, 197 and 198 is July 1, 1999.

**HB 1881--Health Care Practitioner/Credentials (PCB HCL 99-05)
by Health Care Licensing & Regulation; Fasano and Others**
(Passed as section 75 of HB 2125 by Health Care Services; Peaden and Others)

House Committee(s) of Reference: Governmental Rules & Regulation

This bill makes a number of changes to the standardized credentialing process passed in 1998 for physicians. It applies to medical, osteopathic, chiropractic, and podiatric physicians. There are approximately 50,000 physicians licensed in these four professions. The majority, approximately 40,000, are licensed medical physicians.

There are five major changes to the current law:

- The Department of Health will now only serve as a depository for core credentials data and any updates. It will be available electronically to any health care entity that is authorized to access the data by the physician.
- The definition of “core data” has been changed to accommodate the needs of the health care entities. Also, a CVE is changed to a credentials verification organization (CVO), which is the more common name used in the industry.
- All physicians will provide their “core credentials data” and updates to the department instead of a designated CVO. However, a physician may still designate a CVO. Also, a designated CVO is prohibited from releasing any information without prior approval of the physician.
- The time period for reporting certain incidents is changed from within 30 days to within 45 days to coincide with the requirements of profile reporting. Rather than file two reports, a credentials report will also comply with the requirement to file a profile report.
- Effective July 1, 2002, no Florida agency may collect or attempt to collect duplicate core credentials data from any physician if the information is available from the department.

Section 75 of HB 2125 takes effect July 1, 1999.

HB 1983--Home Health Agencies (PCB HCL 99-08)
by Health Care Licensing & Regulation; Fasano and Others
(Passed as CS/SB 2360 by Health, Aging and Long-Term Care;
Thomas)

House Committee(s) of Reference: Governmental Rules & Regulations; Health & Human Services Appropriations

This bill substantially revises Chapter 400, Part IV of the Home Health Services Act. Specifically, an organization is any entity involving more than one health care professional discipline or a health care professional and a home health aide or certified nursing assistant. The changes addressed in this legislation allows the Agency for Health Care Administration to enforce home health care regulation on all home health care agencies and nurse registries that are not exempt in the statute.

The regulation applies to home health care practitioners; however, there are several relevant exemptions, including certain professionals and entities. The major substantive issues addressed in this bill include:

- Revisions and additions to the definitions regarding home health services and home health agencies.
- Establishes the licensure requirements for home health agencies and clarifies the therapeutic services provided in the home.
- Provides insurance coverage requirements
- Provides grounds for disciplinary action penalties for operating without a license.
- Establishes administrative fines for various classes of deficiencies.
- Provides for the establishment and review of the patient assessment, treatment orders, and plan of care.
- Provides for the maintenance of the service provision plan.
- Specifies that the home health agency rendering care and treatment for a patient is fully responsible for the care provided.
- Provides that home health personnel can aide in the self administration of medications, under specific conditions.
- Establishes that the Agency for Health Care Administration has the appropriate rulemaking authority to adopt, publish, and enforce minimum standards relating to home health agencies and nurse registries.
- ▶ Provides for the licensure of nurse registries.
- ▶ Provides that particular service providers must be registered in a nurse registry.
- ▶ Provides screening of home health agency personnel.
- ▶ Establishes the Task Force on Home Health Licensure Provisions.
- ▶ Requires that the rules adopted by the Agency for Health Care Administration and the Department of Elderly Affairs include provisions governing the cooling of facilities.
- ▶ Revises requirements with respect to the eligibility of certain foreign-licensed physicians to take and pass standardized examinations.
- ▶ Prescribes fees for foreign-licensed physicians taking examinations.

The effective date of the bill is October 1, 1999.

HB 1993--Onsite Sewage & Disposal Systems by Alexander and Others

House Committee(s) of Reference: Health Care Licensing & Regulation; Governmental Rules & Regulations; Water & Resource Management; Health & Human Services Appropriations

The bill defines criteria for the establishment of a “mean annual floodwater line” that would be used as the boundary line for the 75 foot setback from the system to surface waters. Additional language provides a definition of a “permanent non-tidal surface water body.” These changes would not explicitly result in a significant change to the setback currently established by county health department staff.

The bill sets aside five dollars from each repair permit to be used for funding a training center for program staff and licensed septic tank contractors with the intent of earmarking funds for the training center without raising existing permit fees. The department reports an average of 20,000 repair permits each year which then generate approximately \$100,000 annually for the training center.

Requires the department to conduct a scientific research project on the issue of seasonally inundated area setbacks and to report its findings to the Legislature by February 1, 2000. Provides that the department may contract with an outside consultant for the study.

Requires the Department of Health and the Department of Environmental Protection to report to the Governor and the Legislature on the current state of sewage treatment technology no later than January 1, 2003. No later than January 1, 2003, Monroe County and the Florida Keys Aqueduct Authority shall report to the Governor and the Legislature on the implementation of charges, fees, and assessments related to sewage collection, treatment, and disposal in Monroe County, and on implementation of the Monroe County Wastewater Master Plan.

The effective date of the bill is upon becoming law.

HB 2031--Certified Nursing Assistants by Sobel (Passed as sections 204-206 of HB 2125 by Health Care Services; Peaden and Others)

House Committee(s) of Reference: Health Care Licensing & Regulation; Governmental Rules & Regulations; Judiciary; Health & Human Services

Appropriations

The substance of this bill was amended onto HB 2125 to require the Department of Health to regulate the practice of certified nursing assistants in Florida. The amendment provides requirements for certification and authorizes the department to deny, suspend, or revoke certification of certified nursing assistants and to impose administrative penalties for the commission of prohibited acts specified in the bill.

Additionally, the bill authorizes the department to issue a letter of exemption from disqualification of certification; requires the department to maintain a registry of certified nursing assistants; provides for a first-degree misdemeanor penalty for a certified nursing assistant or applicant for certification who makes any false statement or fails to disclose information with respect to any voluntary or paid employment or licensure as a certified nursing assistant; and gives the Department of Health access to the background screening registry for nursing home employees maintained by the Agency for Health Care Administration and the child abuse screening system maintained by the Department of Children and Families.

Furthermore, each employer of a certified nursing assistant is required to submit to the Department of Health a list of names and social security numbers of each person employed by the employer as a certified nursing assistant in a nursing-related occupation for a minimum of 8 hours for monetary compensation during the preceding 24 months; and exempts an employer who terminates or denies employment to a certified nursing assistant whose certification is inactive as shown on the certified nursing assistant registry or whose name appears on the central abuse registry and tracking system of the Department of Children and Family Services or on a criminal screening report from the Florida Department of Law Enforcement from civil liability for the termination or denial. Provides that any complaint or record maintained by the Department of Health pursuant to the discipline of a certified nursing assistant and any proceeding held by the department to discipline a certified nursing assistant shall remain open and available to the public.

The effective date of these sections is October 1, 1999.

COMMITTEE ON HEALTH CARE SERVICES

1999 End-of-Session Summary

Bills that Passed Both Houses

CS/HB 337--HMO Contracts
by Health Care Services; Goode and Others (Passed as CS/SB 232
by Banking and Insurance Committee; Latvala and Others)

House Committee(s) of Reference: Health Care Services; Health & Human Services Appropriations

This bill is commonly referred to as the HMO “due process” bill. The bill adds as a prohibited unfair method of competition and unfair or deceptive act or practice by an HMO any retaliatory action by an HMO against a contracted provider, including, but not limited to, termination of a contract with a provider, on the basis that the provider communicated information to the provider’s patient regarding medical care or treatment options for the patient when the provider deems knowledge of such information by the patient to be in the best interest of the patient. (This is commonly referred to as the “gag clause.”)

The bill stipulates that an HMO or a health care provider may not terminate a contract with a health care provider or an HMO unless the party terminating the contract provides the terminated party with a written reason for contract termination, which may include termination for business reasons of the terminating party. The stated reason for termination or any other information relating to the reason for the termination does not create any new administrative or civil action and may not be used as substantive evidence in any action, but may be used for impeachment purposes. The term “health care provider” is defined as any physician or group of physicians licensed under chapter 458, 459, 460, or 461, F.S., or a dentist licensed under chapter 466, F.S.

The bill also specifies that, in termination of a contract between an HMO and a treating physician for any reason other than cause, each party to the contract shall allow subscribers for whom treatment was active to continue coverage and care when medically necessary through completion of treatment of a condition for which the subscriber was receiving care at the time of the termination, until the subscriber selects another treating provider, or during the next open enrollment period offered by the HMO, whichever is longer, but no longer than 6 months after termination of the contract. This provision also allows a subscriber who has initiated a course of prenatal care, regardless of the trimester in which care is initiated, to continue care and coverage until completion of postpartum care. These provisions do not preclude a provider from refusing to continue to provide care to a subscriber who is abusive, noncompliant, or in arrears in payments for services provided. For care continued under this subsection, the HMO and the provider shall continue to be bound by the terms of the terminated contract. Changes made within 30 days before termination of a contract are effective only if agreed to by both parties.

The bill amends the state group insurance program provision to stipulate that in termination of a contract between a treating provider and the state contracted health maintenance organization for any reason other than cause, each party shall allow any enrollee for whom treatment was active to continue coverage and care when medically necessary through completion of treatment of a condition for which the enrollee was receiving care at the time of the termination, until the enrollee selects another treating

provider, or during the next open enrollment period offered, whichever is longer, but no longer than 6 months after termination of the contract. Each party to the terminated contract shall allow an enrollee who has initiated a course of prenatal care, regardless of the trimester in which care is initiated, to continue care and coverage until completion of postpartum care. These provisions do not preclude a provider from refusing to continue to provide care to an enrollee who is abusive, noncompliant, or in arrears in payments for services provided. For care continued under this subsection, the HMO and the provider shall continue to be bound by the terms of the terminated contract. Changes made within 30 days before termination of a contract are effective only if agreed to by both parties.

Effective July 1, 1999, and applicable to policies and contracts issued or renewed on or after that date, HMO rates and rating methodologies are subject to the same requirements as are applicable to indemnity health insurance policies. Specifically, rates charged by any HMO to subscribers shall not follow a rating methodology that is inconsistent, indeterminate, or ambiguous or encourages misrepresentation or misunderstanding. Any change in rates charged for the HMO contract must be filed with the Department of Insurance not less than 30 days in advance of the effective date. At the expiration of such 30 days, the rate filing shall be deemed approved unless prior to such time the filing has been affirmatively approved or disapproved by order of the department. The approval of the filing by the department constitutes a waiver of any unexpired portion of such waiting period. The department may extend by not more than an additional 15 days the period within which it may so affirmatively approve or disapprove any such filing, by giving notice of such extension before expiration of the initial 30-day period. At the expiration of any such period as so extended, and in the absence of such prior affirmative approval or disapproval, any such filing shall be deemed approved.

The effective date of the bill is upon becoming a law, and the provisions apply only to contracts entered into after the effective date.

CS/HB 377--Bone Marrow Transplant by Insurance; Bense and Others

House Committee(s) of Reference: Health Care Services; Insurance; General Government Appropriations

This bill requires health insurers and health maintenance organizations (HMOs) to cover the costs associated with the donor patient to the same extent that the current law requires the insurer or HMO to cover costs associated with the insured for covered bone marrow transplant procedures that are determined to be scientifically acceptable and non-experimental for certain types of cancer. Insurers and HMOs may limit the reasonable costs of searching for the donor to immediate family members and the

National Bone Marrow Donor Program. (Section 627.4236, F.S., currently prohibits an insurer or an HMO from using a policy exclusion for experimental, clinical investigative, educational, or similar treatments to exclude coverage for bone marrow transplant procedures for cancer when such procedures are recommended by the referring physician and the treating physician and the particular use of the procedure is accepted within the appropriate oncological speciality and is determined by rule not to be experimental.)

The bill also expands the membership of the Organ Transplant Advisory Council within the Agency for Health Care Administration from 8 to 12 members and increases the term of office of the council chairman from one year to two years.

The bill provides a legislative finding that the bill fulfills an important state interest.

The costs associated with the donor patients are anticipated to be an aggregate of \$2.2 million to the private insurance and HMO industry. In addition, an estimated \$19,775 cost will be incurred for potential state-employee-related bone marrow donor coverage costs.

Expansion of the membership of the Organ Transplant Advisory Council has a projected meeting travel-related cost of \$1,768 in fiscal year 1999-2000 and an annualized cost of \$3,536 in the Agency for Health Care Administration.

The effective date of the bill is January 1, 2000.

HB 521--Florida Independent Living Council by Casey and Others (Passed as SB 114 by Brown-Waite and Others)

House Committee(s) of Reference: Health Care Services

This bill authorizes the Florida Independent Living Council to be incorporated as a not-for-profit corporation. (The change complies with the Federal Rehabilitation Act of 1973, as amended, which states that Independent Living Councils shall not be entities within a state agency.) Should the board decide to incorporate as a not-for-profit, the board membership for the corporation would include the appointed members of the council. The bill was amended to clarify that the assignment of the Florida Independent Living Council to the Division of Vocational Rehabilitation for administrative purposes shall not apply if the council incorporates as a not-for-profit corporation.

The bill also modifies the composition of council membership to a minimum of 14 members, allowing the council the option to add additional members, as necessary.

The bill does not have a fiscal impact on state or local government.

The effective date of the bill is July 1, 1999.

HB 633--Nassau County General Hospital by Crady

House Committee(s) of Reference: Health Care Services; Community Affairs

This bill repeals chapter 21228, L.O.F., which provided for an election to be held in Nassau County on the question of levying an annual tax for establishing and maintaining a public hospital at Fernandina in Nassau County. Additionally, the act validated the authorization and issuance of hospital bonds and acts relating to the appointment and organization of a board of hospital trustees for the Nassau County hospital. The bill also *expressly* repeals all prior special acts relating to the hospital district.

(In 1994, chapter 94-446, L.O.F., was passed, which allowed the hospital board of trustees for Nassau General Hospital to sell or lease the hospital and all related facilities and assets to a private or public not-for-profit or for-profit corporation. Effective July 1, 1994, the Board of Trustees of Nassau General Hospital sold all of its assets to Baptist Medical Center-Nassau pursuant to the authority granted in chapter 94-446, L.O.F. The Board of Trustees of Nassau General Hospital was dissolved, effective August 31, 1994, by Board resolution on July 19, 1994. According to a letter from the State of Florida, Department of Community Affairs to the Baptist Medical Center-Nassau, the status of the hospital district was changed to "dissolved" in August 1994.)

The effective date of the bill is upon becoming law.

HB 687--Public Medical Assistance Trust Fund Task Force by Brummer (Passed as section 192 of HB 2125 by Health Care Services and Peaden & Others)

This bill provides for the establishment of a seven-member task force to review sources of funds deposited into the Public Medical Assistance Trust Fund. Members are to be appointed by the Senate President (2), the House Speaker (2), and the Governor (3). Specific study topics include: the need for any statute updates; whether current assessments are equitably imposed; whether exemption from or inclusions within the assessments are justified; and a review of federal requirements relating to provider assessments. In addition, the bill directs AHCA to provide staff support and technical assistance to the task force, and requires the task force to convene no later than August 1, 1999, and report its findings and recommendations by December 1, 1999.

The effective date of the bill is July 1, 1999.

HB 741--Rural Hospital Capital Improvement **by Kilmer and Others** (Passed as CS/CS/SB 890 by Fiscal Policy; Health, Aging and Long-Term Care; Mitchell and Others)

House Committee(s) of Reference: Health Care Services; Governmental Rules & Regulations; Health & Human Services Appropriations

This bill creates the rural hospital capital improvement grant program and provides a mechanism for a rural hospital to apply for a grant from the Department of Health. Each rural hospital as defined in s. 395.602, F.S., must receive a minimum of \$100,000 annually, subject to legislative appropriation, upon application to the Department of Health, for projects to acquire, repair, improve, or upgrade systems, facilities, or equipment. The Department of Health must establish, by rule, criteria for awarding grants for any remaining funds, which must be used exclusively for the support and assistance of rural hospitals, including criteria relating to the level of uncompensated care rendered by the hospital, the participation of the hospital in a rural health network, and the proposed use of the grant by the rural hospital to resolve a specific problem. The department must consider any information that rural hospitals submit in a grant application, and in determination of the hospital's eligibility for and the amount of the grant. The Department of Health must ensure that the funds are used solely for the purpose specified in the bill. Total grants awarded must not exceed the amount appropriated for the program.

The bill amends s. 395.602, F.S., to revise the definition of "rural hospital" to include a hospital in a constitutional charter county with a population of over 1 million persons that has imposed a local option health service tax pursuant to law and in an area that was directly impacted by a catastrophic event on August 24, 1992, for which the Governor of Florida declared a state of emergency pursuant to chapter 125, F.S., and has 120 beds or less that serves an agricultural community with an emergency room utilization of no less than 20,000 visits and a Medicaid in-patient utilization rate greater than 15 percent. (The effect of this provision is to recognize Homestead Hospital in Dade County as a rural hospital.)

The effective date of the bill is July 1, 1999.

While the bill itself provides no appropriation, Specific Appropriation 513A in the 1999-2000 General Appropriations Act includes \$4,350,000 for rural hospital capital improvement.

HB 783--Health Provider Contracts

by Murman (Passed as CS/SB 2554 by Banking and Insurance; King)

House Committee(s) of Reference: Health Care Services; Insurance; Health Care Licensing & Regulation; Health & Human Services Appropriations

This bill amends s. 626.022, F.S., to provide that this part does not apply to a certified public accountant licensed under ch. 473, F.S. who is acting within the scope of the practice of public accounting, as defined in s. 473.302, F.S., provided that the activities of the certified public accountant are limited to advising a client of the necessity of obtaining insurance, the amount of insurance needed, or the line of coverage needed, and provided that the certified public accountant does not directly or indirectly receive or share in any commission, referral fee, or solicitor's fee.

The bill requires that payments by a fiscal intermediary to a health care provider and health maintenance organizations (HMOs), include the following information: for a "*noncapitated*" health care provider, an explanation of services being reimbursed which includes the patient's name, date of service, procedure code, amount of reimbursement and plan identification; and for a "*capitated*" health care provider, a statement of services which includes the number of patients covered by the contract, rate per patient, total amount of payment, and the identification of the plan on whose behalf the payment is made.

The bill allows HMOs to increase the copayment for any benefit, or amend benefits to which a subscriber is entitled under a group contract, subject to written notice to the contract holder at least 45 days in advance of the time of coverage renewal. Such notice must identify deletions, limitations, or amendments to any benefits provided in the group contract which will be included in the group contract upon renewal.

In addition, the bill provides that if cancellation is due to nonpayment of premium, the insurer or health maintenance organization may not retroactively cancel the policy or contract to a date prior to the date that notice of cancellation was provided to the policyholder or subscriber unless the insurer or health maintenance organization mails notice of cancellation to the policyholder or subscriber prior to 45 days after the date the premium was due. Such notice must be mailed to the policyholder's or subscriber's last address as shown by the records of the insurer or health maintenance organization and may provide for a retroactive date of cancellation no earlier than midnight of the date that the premium was due.

Relating to converted policies for insurers and converted contracts for health maintenance organizations, the bill establishes that if termination was the result of failure to pay any required premium or contribution and such nonpayment of premium was due to acts of an employer, policyholder, or group contract holder other than the

employee, certificateholder, or individual subscriber, written application for the converted policy or contract must be made and the first premium must be paid to the insurer not later than 63 days after notice of termination is mailed by the insurer, health maintenance organization or the employer, whichever is earlier, to the employee's, certificateholder's, or individual's last address as shown by the record of the insurer, organization, or employer, whichever is applicable. In such case of termination due to nonpayment of premium by the employer, policyholder, or group contract holder, the premium for the converted policy or contract may not exceed the rate for the prior group coverage for the period of coverage under the converted policy or contract prior to the date notice of termination is mailed to the employee, certificateholder, or individual subscriber.

The bill further requires that HMO contracts providing for massage must also cover the services of persons licensed to practice massage under certain circumstances. Such massage services are subject to the same terms, conditions, and limitations as other providers.

Finally, a contract between a HMO and health care provider may not contain provisions which prohibits or restricts: the health care provider from entering into a commercial contract with any other HMO; or the HMO from entering into a commercial contract with any other health care provider.

The effective date of the bill is July 1, 1999.

HB 797--Minority HIV and AIDS Prevention **by Hill (SB 1908 by Dawson-White & Others; passed as Sections 200-202 of HB 2125 by Health Care Services and Peaden & Others)**

The bill establishes the Minority HIV and AIDS Task Force within the Department of Health. The task force will develop and provide recommendations to strengthen HIV and AIDS prevention and treatment programs in minority communities. The Secretary of the Department of Health will appoint at least 15 persons to the task force. Membership will include, but not be limited to: persons infected with HIV or AIDS; minority community-based support organizations; minority treatment providers; members of the religious community within groups of persons infected with HIV or AIDS; and the Department of Health. The task force is required to report research findings and recommendations to the Legislature by February 1, 2001. The task force will be abolished by July 1, 2001.

The bill also directs the Department of Health to develop and implement a statewide HIV and AIDS minority prevention campaign. Elements of the campaign are to consist of: television, radio, and outdoor advertising; public service announcements; and peer-to-peer outreach intended to reach minorities at risk of HIV infection.

The bill establishes four additional positions within the Department of Health. The regional minority coordinators will facilitate statewide efforts to implement and coordinate HIV and AIDS prevention and treatment efforts. The statewide coordinator will report findings, conclusions, and recommendations directly to the chief of the Bureau of HIV and AIDS within the Department of Health. In conjunction with the Minority HIV and AIDS Task Force and the Department of Health, the minority statewide coordinator will conduct a Black Leadership Conference on HIV and AIDS to convene by January 2000.

The bill provides an appropriation of \$250,000 from the General Revenue Fund for carrying out the provisions of the Minority HIV and AIDS Task Force.

The effective date of the bill is July 1, 1999.

HB 811--Child Protection Team Services

by Brown (CS/SB 2118 by Health, Aging and Long-Term Care; Dawson-White)

House Committee(s) of Reference: Health Care Services; Children & Families; Health & Human Services Appropriations

This bill amends s. 39.202, F.S., 1998 Supplement, relating to the confidentiality and exemption from public disclosure of certain medical treatment information generated by child protection teams of the Department of Health, to authorize the release of limited information for purposes of reimbursement by health plan payors. This authorization is provided to facilitate payment by health maintenance organizations and insurers to pediatricians and other health care providers under contract with the Department of Health who perform medical evaluations and diagnoses relating to suspected or alleged child abuse, abandonment, or neglect.

The effective date of the bill is July 1, 1999.

HB 855--School Health Services

by Minton and Betancourt (Passed as CS/SB 1356 by Health, Aging and Long-Term Care; Klein and Others)

House Committee(s) of Reference: Health Care Services; Education/K-12; Community Affairs; General Appropriations

This bill:

- Amends the School Health Services Act (s. 381.0056, F.S.), to: add a definition of the term "entity" or "health care entity"; specify that schools make *adequate* space available for health services; specify that certain services be documented

as part of the local school health services plan; and specify that any person providing school health services under a local school health services plan be considered an instrumentality of the state for purposes of sovereign immunity.

- Creates s. 381.0059, F.S., which requires background screening for persons providing school health services.
- Directs the Department of Health to determine a means through which local units of government other than county health departments could be designated as Title V (Maternal and Child Health Block Grant) agencies.
- Provides for a Department of Health work group relating to the training requirements for nurses providing school health services.

Several provisions were deleted from the bill because of potential fiscal concerns. These provisions included: a short title; reference to matching funds for school nurse services public-private partnerships; legislative intent with regard to funding for a nurse in every school from tobacco settlement funds; and a \$75,000 appropriation of non-recurring General Revenue funds for a school health summit.

The effective date of the bill is July 1, 1999.

HB 1415 -- State Group Insurance Program (SB 800 by Thomas & Others; passed as Section 4 of CS/SB 232 by Banking and Insurance Committee and Latvala & Others)

The bill amends the state group insurance program provision to stipulate that in termination of a contract between a treating provider and the state contracted health maintenance organization for any reason other than cause, each party shall allow any enrollee for whom treatment was active to continue coverage and care when medically necessary through completion of treatment of a condition for which the enrollee was receiving care at the time of the termination, until the enrollee selects another treating provider, or during the next open enrollment period offered, whichever is longer, but no longer than six months after termination of the contract. Each party to the terminated contract shall allow an enrollee who has initiated a course of prenatal care, regardless of the trimester in which care is initiated, to continue care and coverage until completion of postpartum care. These provisions do not preclude a provider from refusing to continue to provide care to an enrollee who is abusive, noncompliant, or in arrears in payments for services provided. For care continued under this subsection, the HMO and the provider shall continue to be bound by the terms of the terminated contract. Changes made within 30 days before termination of a contract are effective only if agreed to by both parties.

This act takes effect upon becoming law and applies only to contracts entered into after the effective date.

HB 1585--Parental Notice of Abortion Act
by Murman (Passed as CS/SB 1598 by Health, Aging, and Long- Term
Care; Bronson)

House Committee(s) of Reference: Health Care Services; Judiciary; Crime &
Punishment; Health & Human Services Appropriations

This bill provides certain limitations on a minor's right to an abortion in Florida. Specifically, the bill requires the person performing or inducing the termination of a pregnancy of a minor to notify the parent or legal guardian of the minor's intention at least 48 hours prior to performing or inducing the termination of pregnancy.

The bill also provides for disciplinary action for violations of the notice requirement and for procedures for judicial waiver of notice. The court is required to issue an order authorizing the minor to consent to the termination of pregnancy if the court finds, by clear evidence, that the minor is sufficiently mature to make the decision or there is evidence of child abuse or neglect, or sexual abuse of the complainant by one or both of her parents, her guardian, or her custodian.

In addition, the bill requires the court to conduct waiver proceedings, to issue written and specific factual findings and legal conclusions supporting its decision, and to maintain confidential records of the evidence and findings. Expedited confidential appeal is allowed, as provided by Florida Supreme Court rule, and filing fees shall not be required of minors who petition for waiver. Minors have the right to court-appointed counsel upon their request and the Florida Supreme Court is requested to adopt rules to ensure that judicial proceedings for waiver are handled in an expeditious and confidential manner and in a manner satisfying state and federal courts.

Finally, the bill provides that notice shall not be required if: a medical emergency exists; notice is waived in writing by the person who is entitled to notice; the minor is or has been married or has the disability of nonage removed; or notice is waived through a judicial procedure.

The effective date of the bill is July 1, 1999.

HB 1871--Autism/Clinical Trials/Secretin
by Tullis (SB 976 by Myers; passed as Section 61 of HB 2125 by
Health Care Services and Peaden & Others)

This bill directs the Division of Children's Medical Services of the Department of Health to contract with a private nonprofit provider affiliated with a teaching hospital to conduct clinical trials, approved by a federally-sanctioned institutional review board within the teaching hospital, on the use of the drug Secretin to treat autism.

The effective date of the bill is July 1, 1999.

CS/HB 1927&961--Managed Health Care by Health Care Services; Eggeletion, Lacasa, and Others

House Committee(s) of Reference: Health Care Services; Health & Human Services Appropriations

This bill requires the State Center for Health Statistics to publish and make available to the public HMO report cards.

The bill clarifies that the Statewide Provider and Subscriber Assistance Panel is precluded from hearing grievances that are part of an internal grievance process in a Medicare managed care entity. Accrued interest on unpaid balances, court costs, and transportation costs associated with grievance procedures are also included in the list of incidental expenses that cannot form the basis for grievances before the panel. The bill expands the membership requirements for the panel to include: a consumer, appointed by the Governor; a physician, appointed by the Governor, as a standing member; and physicians who have expertise relevant to the case to be heard, on a rotating basis.

The bill establishes that any policy issued under s. 627.6471, F.S., which does not provide direct patient access to a dermatologist must conform to the requirements of s. 627.6472(16). Such requirements shall not be construed to affect the amount the insured or patient must pay as a deductible or coinsurance amount authorized under s. 627.6471, F.S.

The bill authorizes an HMO to offer as a rider to a contract for comprehensive health care services a point-of-service benefit, whereby HMO subscribers may choose to receive services from a provider with whom the HMO does not have a contract, exclusive of a referral for such services. To offer such a rider, the HMO must have been licensed in Florida for at least three years and have a minimum surplus of \$5 million; and the HMO's point-of-service business must not exceed 15 percent of the HMO's total product premium. The point-of-service plan can include copayments and annual deductibles, and must be filed with and approved by Department of Insurance.

The bill provides that chronic disease management measures, preventive health care for adults and children, prenatal care measures, and child health checkup measures

are required data to be released to the agency as indicators of HMO access and quality of care.

In addition, the bill requires that conducting an annual health maintenance organization member satisfaction survey and contracting with physician consultants for the Statewide Provider and Subscriber Assistance Panel be added to the list of AHCA's authorized uses of regulatory assessment revenues deposited into the Health Care Trust Fund.

The bill establishes that the provisions of s. 409.910(7), F.S., relating recovery of Medicaid benefits when other parties are liable, do not apply to any proceeds received by the state, or any agency thereof, pursuant to a final order, judgment, or settlement agreement, in any matter in which the state asserts claims brought on its own behalf, and not as a subrogee of a recipient, or under other theories of liability, or in any matter in which the state asserted both claims as a subrogee and additional claims. The bill further states that these amendments to s. 409.910, F.S., 1998 Supplement, are: intended to clarify existing law; remedial in nature; and specifically made retroactive to October 1, 1990.

In addition, the bill provides that if cancellation is due to nonpayment of premium, the insurer or health maintenance organization may not retroactively cancel the policy or contract to a date prior to the date that notice of cancellation was provided to the policyholder or subscriber unless the insurer or health maintenance organization mails notice of cancellation to the policyholder or subscriber prior to 45 days after the date the premium was due. Such notice must be mailed to the policyholder's or subscriber's last address as shown by the records of the insurer or health maintenance organization and may provide for a retroactive date of cancellation no earlier than midnight of the date that the premium was due.

Relating to converted policies for insurers and converted contracts for health maintenance organizations, the bill establishes that if termination was the result of failure to pay any required premium or contribution and such nonpayment of premium was due to acts of an employer, policyholder, or group contract holder other than the employee, certificateholder, or individual subscriber, written application for the converted policy or contract must be made and the first premium must be paid to the insurer not later than 63 days after notice of termination is mailed by the insurer, health maintenance organization or the employer, whichever is earlier, to the employee's, certificateholder's, or individual's last address as shown by the record of the insurer, organization, or employer, whichever is applicable. In such case of termination due to nonpayment of premium by the employer, policyholder, or group contract holder, the premium for the converted policy or contract may not exceed the rate for the prior group coverage for the period of coverage under the converted policy or contract prior to the date notice of termination is mailed to the employee, certificateholder, or individual subscriber.

Further, the bill: provides that any retroactive reductions of payments or demand for refund of previous overpayments which are due to retroactive review of coverage decisions or payment levels and any retroactive demands by providers for payment due to underpayments or non-payments for covered services must be reconciled to specific claims unless the parties agree to other reconciliation methods and terms; allows the look back period to be specified by the terms of the contract; and requires the Agency for Health Care Administration to establish an advisory group to study and make recommendations relating to payment of claims.

The bill provides that area agencies on aging within the Department of Elderly Affairs are subject to ch. 119, F.S., relating to public records, and when considering any contracts requiring the expenditure of funds, are subject to ss. 286.011-286.012, F.S., relating to public meetings.

Finally, the bill amends subsection (13) of section 409.912, F.S., relating to the purchase of goods and services for Medicaid recipients, to require the Agency for Health Care Administration to develop: capabilities to identify actual and optimal practice patterns; patient and provider educational initiatives; methods for determining patient compliance with prescribed treatments; fraud, waste, and abuse prevention and detection programs; and beneficiary case management programs. An advisory board is established to evaluate practitioner prescribing patterns and to recommend ways to incorporate their use in the practice pattern identification program.

The bill provides for an appropriation of \$1,439,000 from the Health Care Trust Fund to the Agency for Health Care Administration for purposes of implementing the provisions of the bill.

The effective date of the bill is upon becoming a law.

HB 1985 -- Biomedical Research by Fasano and Littlefield (SB 2558; passed as Section 2 of HB 1885 by Maygarden)

This bill provides for the creation of a biomedical research program to support research initiatives that address the health care problems of Floridians in the areas of cancer, cardiovascular disease, stroke, and pulmonary disease, to be established within the Department of Health.

The bill provides for funds to be appropriated from the Tobacco Settlement Trust Fund to the Department of Health for the exclusive purpose of awarding grants and fellowships under the biomedical research program and for administrative expenses. Such research must relate to the diagnosis and treatment of diseases related to tobacco use, including cancer, cardiovascular disease, stroke, and pulmonary disease.

In addition, the bill

- provides for a Biomedical Research Advisory Council to be created within the Department of Health to advise the Secretary of Health as to the direction and scope of the biomedical research program;
- provides that any university or established research institute in the state may submit applications for biomedical research funding under the program, and grants and fellowships will be awarded by the Secretary of Health, after consultation with the council, on the basis of scientific merit; and
- requires an annual progress report on the state of biomedical research in Florida, to be submitted by the council to the Governor, the Secretary of Health, the President of the Senate, and the Speaker of the House of Representatives.

The effective date of the bill is July 1, 1999.

HB 2071 (PCB HCS 99-07)--Insurance
by Health Care Services and Peaden (Passed as CS/SB 312 by
Banking and Insurance; Lee)

House Committee(s) of Reference: None

This bill addresses several insurance issues. The bill addresses some of the concerns raised in three reports released by the Fourteenth Statewide Grand Jury in December 1998, related to insurance fraud.

The bill facilitates the licensing and appointment procedures for entities offering credit property, credit life, credit disability, and credit insurance.

Specific insurance fraud provisions addressed in the bill include:

- Criminal penalties for insurance fraud are increased;
- Statutes of limitations for prosecuting insurance fraud are extended;
- An Anti-Fraud Reward Program is established, and \$250,000 is appropriated from the Insurance Commissioner's Regulatory Trust Fund to implement the program;
- HMOs are required to file anti-fraud plans and establish special investigative units;
- HMOs and HMO contracts are included under the law prohibiting false and fraudulent insurance claims and applications; and
- The criminal penalty for first offenses of "patient brokering" provisions are increased.

The bill defines “collateral protection insurance” in the context of the Florida Hurricane Catastrophe Fund, joint underwriters and joint reinsurers, and insurance risk apportionment plans. Such insurance is not residential coverage.

The bill also addresses health insurance issues relating to the cancellation of coverage as a result of the non-payment of premiums by an employer. The bill:

- Limits the right of an insurance company or health maintenance organization (HMO) to retroactively cancel a group health insurance policy due to nonpayment of premium by the employer, and imposes certain notice requirements for enrollees prior to coverage cancellation.
- Protects the employee’s right to elect a conversion health insurance policy in the event of such a cancellation.
- Clarifies current law to allow group insurers to contract with another insurer to issue conversion contracts on its behalf, provided that the other insurer is authorized in Florida and the policy has been approved by the Department of Insurance.

The effective date of the bill is October 1, 1999, and shall apply to policies and contracts issued or renewed on or after that date.

HB 2111 (PCB HCS 99-02) -- Mental Health and Substance Abuse by Health Care Services and Peaden (Passed as Section 4 of HB 2003 by Children and Family Services and Murman)

This bill creates the Commission on Mental Health and Substance Abuse and specifies the duties of the Commission and the membership that is appointed by the President of the Senate, Speaker of the House of Representatives, and the Governor. The Legislature intends for this Commission to conduct a systematic review of the overall management of the state’s mental health and substance abuse system for updating chapter 394, part IV, F.S. An interim report to the Governor and the Legislature is due no later than March 1, 2000, and the final report with statutory modifications is due to the Governor and the Legislature no later than December 1, 2000.

The effective date is July 1, 1999.

HB 2125 (PCB HCS 99-05)--Health Department by Health Care Services; Peaden (Also includes: CS/HB 319, HB 687, HB 797, HB 965, HB 1073, HB 1431, CS/HB 1467, HB 1703, HB

1847, HB 1871, HB 1881, HB 2031, and HB 2239)

House Committee(s) of Reference: Governmental Operations; Governmental Rules & Regulations; Health & Human Services Appropriations

GENERAL PROVISIONS RELATING TO THE DEPARTMENT OF HEALTH

This bill includes several provisions designed to improve efficiency of public health programs within the Department of Health. These provisions: clarify language regarding the use of incentives and promotional items in disease prevention and health education; revise the list of divisions that are authorized to exist in the department; update career service exemptions; permit the department to contract with the Department of Children and Family Services to conduct administrative hearings in matters concerning the Special Supplemental Food Program for Women, Infants, and Children (WIC) and Children's Medical Services (CMS); clarify co-payment requirements relating to primary care challenge grants; authorize the department to purchase automobiles for use by county health departments; remove any responsibility regarding alligator management and trapping from the Department of Health and Rehabilitative Services; correct the name of the WIC program to conform to federal law; revise the membership of the Diabetes Advisory Council; and remove language requiring the department to reimburse hospitals for the cost of furnishing data for the cancer registry.

The bill also: removes language that prevents the preliminary HIV test results of a mother who has just given birth from being released to the mother at the time of delivery; clarifies requirements relating to the performance of HIV tests on deceased persons; gives the department authority to adopt rules relating to inspection of certain group care facilities; gives the department authority to adopt rules relating to family planning; provides a definition for "multi-family water system"; revises the definition of "private water system"; authorizes nursing homes to purchase medical oxygen; revises the membership of the Health Information Systems Council; requires the council to establish a review process for agency health-related data collection and maintenance; permits the Department of Health to become an accrediting entity of the National Environmental Laboratory Accreditation program; permits the Department of Health to pass on an increase in examination costs that the American Registry of Radiologic Technologist will make on January 1, 2000; changes the time of biennial renewal to the birth month of the certified radiologic technician from December 31; provides names for three Department of Health buildings; repeals obsolete and unnecessary provisions relating to the submission of Healthy Communities plans and transportation of radioactive materials; allows the department to use excess money for the improvement of health facilities at and authorizes the department to establish an advisory body for, the A.G. Holley State Hospital.

Vital Statistics

The bill revises department authority relating to vital records; provides the department with authority to adopt rules for the requirement of notarized documents; removes language relating to reproduction and destruction of records and the disclosure of certain social security numbers; and clarifies procedures and modifies reporting requirements relating to birth records;

Public Medical Assistance Trust Fund

The bill provides for the establishment of a seven-member task force to review sources of funds deposited into the Public Medical Assistance Trust Fund. Members are to be appointed by the Senate President (2), the House Speaker (2), and the Governor (3). Specific study topics include: the need for any statute updates; whether current assessments are equitably imposed; whether exemption from or inclusions within the assessments are justified; and a review of federal requirements relating to provider assessments. In addition, the bill directs AHCA to provide staff support and technical assistance to the task force, and requires the task force to convene no later than August 1, 1999, and report its findings and recommendations by December 1, 1999.

Trauma Care

The bill provides legislative findings and intent that there has been a lack of timely access to trauma care due to the state's fragmented trauma system and that there is a necessity to plan for and establish an inclusive system which would incorporate and coordinate all providers who have resources to meet the needs of trauma victims. In addition, the bill: finds that there would be significant benefits from coordinating the trauma-related activities of several state agencies; states the intent of the Legislature to place primary responsibility for planning a statewide system with the Department of Health; finds that there would be significant benefit from the department, the Agency for Health Care Administration and the Boards of Medicine and Nursing establishing interagency teams and agreements to develop guidelines, standards, and rules; gives leadership responsibility for this activity to the Department of Health; provides for developing and submitting federal waivers as necessary; provides specific duties and issues which the multiple agencies must address; and requires medical directors of emergency medical services providers to have medical accountability for the trauma victim during an inter-facility transfer.

The bill encourages the department to foster the provision of trauma care and serve as a catalyst for improvements in trauma care including the promotion of trauma centers and agencies in each trauma region and updating the state trauma system plan by December, 2000, and every five years thereafter.

In addition, the bill: deletes the definitions of local and regional trauma agencies; provides a definition of trauma agency, which may be established and operated by one or more counties; provides a definition of "trauma alert victim"; modifies the definition of

“trauma victim” to include injuries due to burns and to remove “life-threatening” as a condition of being defined as a trauma victim; decreases the frequency for submission of trauma agency plans from annually to every five years; eliminates requirements for the department to approve or disapprove plans within specified time frames; removes requirements for public hearings with adequate notice; and removes the requirement that trauma agencies submit written notice to the department 90 days prior to ceasing operation.

The bill deletes periodic revision by the Legislature of county trauma service area assignments based on recommendations made in local or regional trauma plans. The bill requires the department to assume this review and assignment function, and requires the department to take into consideration regional recommendations and the recommendations made as a part of the state trauma plan in the review and assignment function. The review is to take place in the year 2000 and every five years thereafter.

The bill requires that Level I and Level II trauma centers should each have the capability of treating a minimum of 1,000 and 500 trauma patients, respectively, with injury severity scores of nine or greater annually.

The bill requires Emergency Medical Services providers to transport trauma alert victims to hospitals approved as trauma centers, except as provided in local or regional trauma protocols or, if no local or regional trauma protocol is in effect, as provided for in a provider’s departmentally approved trauma protocol and that trauma alert victims be identified through the use of a trauma scoring system.

Medicaid

The bill requires the Department of Children and Family Services and the Agency for Health Care Administration to develop a system to allow unborn children of Medicaid-eligible mothers to be issued a Medicaid identification number to be used for billing purposes and for monitoring of care for the child beginning with the child’s date of birth; makes technical changes relating to eligibility for the Medicaid service package in the CMS program; provides for a phase-in of Medicaid capitated payments to CMS; gives the Department of Health and the Agency for Health Care Administration the ability to share confidential information when it needed for Medicaid reimbursement purposes; provides language to enable the Agency for Health Care Administration to pursue a certified match program to use local and state Healthy Start funding to draw down federal matching funds in the event that the federal government does not approve the pending Healthy Start waiver request; amends the section of statute relating to Medicaid third-party liability to require health insurers and health maintenance organizations to develop the capability for tape matches for purposes of Medicaid file matches, using the Medicare standard billing format, to determine if Medicaid recipients might have any applicable insurance coverage; creates the “Medicaid Estate Recovery

Act,” which codifies into statute Medicaid’s estate recovery process; amends the section of statute relating to Medicaid provider service network demonstration projects as a cost-effective means of purchasing, to delete the requirement that one of the four demonstration projects be conducted in Orange County; authorizes the Agency for Health Care Administration to withhold payments in whole or in part based on evidence of fraud, willful misrepresentation, or criminal activities associated with the delivery of Medicaid goods or services; deletes existing limitations that the agency may only reduce payments up to ten percent of amounts owed, or up to \$25,000 per month when an overpayment by the agency exceeds \$75,000; provides for prompt payment of withheld payments to providers once withholding disputes are settled; creates a new section of statute that specifically addresses Medicaid program integrity issues in the context of Medicaid physician providers; and repeals obsolete and unnecessary provisions relating to Medicaid alternative service networks; and requires the Agency for Health Care Administration to enter into agreements with the not-for-profit organizations based in this state for the purpose of providing vision screening.

Chapter 499--Drug, Cosmetics, and Household Products

The bill makes several amendments to ch. 499, F.S., to: clarify that a person must be authorized to sell or transfer prescription drugs under ch. 499, and that the person acquiring prescription drugs must be authorized to do so; clarify that providing the department with false information regarding any matter within the jurisdiction of ch. 499 is prohibited; prohibit distribution of a legend device to a patient without a prescription or order from a licensed practitioner; conform the prescription statement on labels to recently enacted federal language; and authorize federal, state, and local government employees, acting within the scope of employee, to possess prescription drug samples.

Emergency Medical Services

The substance of CS/HB 1431 was amended onto this bill to establish statutory authority for specific sections of Chapter 64-E, Florida Administrative Code. The bill provides statutory authority for current rules that relate to the regulation of emergency medical technician and paramedic education programs, staffing of advanced life support transport vehicles, and the provision of a patient’s prehospital medical record to the hospital that receives the patient.

Credentialing

House Bill 1881 was added to this bill to provide for the standardized credentialing process for health care practitioners licensed under chapters 458, 459, 460, and 461, F.S. (medical, osteopathic medicine, chiropractic medicine, and podiatric medicine physicians, respectively).

The principle changes are the following:

- The Department of Health is no longer identified as a credentialing verification entity (CVE) for all health care practitioners in the state. The department is designated as a depository for mostly unverified core credentials data and responsible for corrections, updates, or modifications to such data. The bill provides that core credentials data be electronically available to any health care entity that is authorized access to the data by the health care practitioner. Access to the new system without prior approval of the health care practitioner is prohibited.
- The definition of “core credentials data” has been changed to accommodate the needs of the health care entities. The bill also requires the renaming of a CVE to “credentials verification organization” (CVO), which is the common name used in the industry.
- All practitioners are required to provide “core credentials data” and corrections, updates, or modifications to such data to the department instead of a designated CVO. However, a health care practitioner may still designate a CVO for the same purpose. A designated CVO must meet the time frames established for a practitioner or face license suspension. Also, a designated CVO is prohibited from releasing any information without prior approval of the practitioner.
- The time period for reporting certain incidents is changed from within 30 days to within 45 days to coincide with the requirements of profile reporting. Rather than file two reports (profile and credentials update), a credentials report is redesigned to comply with the requirements of a profile report.
- Effective July 1, 2002, no Florida agency may collect or attempt to collect duplicate core credentials data from any practitioner if the information is available from the department. This does not restrict requesting additional information not included in the department’s file.
- A CVO must maintain liability insurance to meet certification or accreditation requirements.
- Provides that no health care entity or CVO is liable if information/data was obtained directly from the department.

REGULATION OF HEALTH CARE PRACTITIONERS

House Bill 1467 was amended onto HB 2125 to include provisions relating to various health care practitioners regulated by the Department of Health.

General Provisions - Chapter 455, F.S.

With regard to regulation of health care practitioners, this bill: establishes a uniform definition for sexual misconduct and its prohibition; expands the opportunity for regulatory boards to discipline practitioners for certain violations (including failing to comply with the requirements of profiling and credentialing, testing positive for drugs or illegal drugs without a legitimate medical reason for such drug, and failing to inform patients about their rights); clarifies that business establishments regulated by the Division of Medical Quality Assurance (MQA) are required to maintain an active business license; removes information on hospital discipline of a health care practitioner from the practitioner profile report prepared by the Department of Health; and expands the definitions in s. 455.667, F.S., to provide that in certain instances, the department may obtain patient records, billing records, and insurance records without patient consent if a complaint has been filed alleging inadequate medical care, fraud, kickbacks, etc., and certain conditions are met. The bill also directs the Division of Children's Medical Services of the Department of Health to contract with a private nonprofit provider affiliated with a teaching hospital to conduct clinical trials, approved by a federally-sanctioned institutional review board within the teaching hospital, on the use of the drug Secretin to treat autism; requires midwives to meet the financial requirements contained in s. 455.694, F.S.; provides language establishing that there is no presumption that a blood-borne infection is a job-related injury; and provides that any person injured as a result of a willful violation of section 455.561, F.S., relating to disclosure of confidential information, shall have a civil cause of action for treble damages, reasonable attorney fees, and costs.

Acupuncture - Chapter 457, F.S.

The bill provides for acupuncture teaching permits and allows faculty from other countries and states to teach in schools in Florida, for a period of up to 12 months, without a Florida license. The bill also defines prescriptive rights to mean the prescription, administration, and use of needles and devices, restricted devices, and prescription devices that are used in the practice of acupuncture and oriental medicine.

Medicine - Chapter 458, F.S.

The bill specifies that individuals possessing temporary licenses to practice in areas of critical need may use work for approved employers in any area of critical need without getting approval for each area; establishes authority to convert active licenses to limited licenses for retirement/volunteer practice without making a full application and meeting the other requirements; increases the board's administrative fine cap for practice act violations from a maximum of \$5,000 per violation to \$10,000; and extends examination period for certain foreign physicians; authorizes the Department of Health to charge foreign licensed examinees a fee not to exceed 25% for the costs of the first exam and a fee not to exceed 75% of the actual costs for subsequent exams.

Osteopathic Medicine - Chapter 459, F.S.

The bill specifies that individuals possessing temporary licenses to practice in areas of critical need may use work for approved employers in any area of critical need without getting approval for each area; establishes authority to convert active licenses to limited licenses for retirement/volunteer practice without making a full application and meeting the other requirements; increases the board's administrative fine cap for practice act violations from a maximum of \$5,000 per violation to \$10,000; and adds authority to impose an administrative fine for a violation of a patient's rights.

Chiropractic Medicine - Chapter 460, F.S.

The bill exempts chiropractic students enrolled in an accredited chiropractic college and participating in a community-based internship under direct supervision of a credentialed doctor of chiropractic medicine from the provisions of ch. 460, F.S. Additionally, it defines community-based internship; authorizes the board to establish by rule, qualifications for serving as a supervising chiropractic physician and procedures for approving a supervisor; increases the board's administrative fine cap for practice act violations from a maximum of \$2,000 per violation to \$10,000; deletes the requirement for a post graduate internship for chiropractic licensure candidate; and allows for an undergraduate, "community-based" internship.

Podiatric Medicine - Chapter 461, F.S.

The bill provides a definition of the "practice of podiatric medicine" that includes the active practice of not less than two years of the four years prior to application. The bill defines a certified podiatric X-ray assistant as a person employed under the direct supervision of a licensed podiatric physician to perform specific radiologic functions; directs the board to adopt rules to implement this program; establishes provisions for the operation of X-ray machines by podiatric X-ray assistants; and increases the board's administrative fine cap for practice act violations from a maximum of \$1,000 per violation to \$10,000.

Nursing - Chapter 464, F.S.

The bill limits the number of times an applicant is permitted to take the examination to three consecutive times and requires remedial training approved by the board prior to subsequent examinations. In addition, the bill provides that no provisions of this chapter shall be construed to prohibit the practice of nursing by individuals enrolled in board-approved remedial courses and establishes certain uses of the title "Nurse" as misdemeanors of the first degree.

Pharmacy - Chapter 465, F.S.

The bill defines "data communication device" as an electronic device that receives electronic information from one source and transmits or routes it to another, including,

but not limited to, any such bridge, router, switch, or gateway; prohibits the use of records obtained through data communication devices; provides for the return of unit-dose prescriptions in institutions to include pharmacies located in correctional facilities; explicitly provides that a pharmacist may be disciplined for unauthorized release of a patient's records; increases the board's administrative fine cap for practice act violations from a maximum of \$1,000 per violation to \$5,000. In addition, the bill creates within the Department of Health a ten-member Task Force for the Study of Collaborative Drug Therapy.

Dentistry - Chapter 466, F.S.

The bill clarifies that written work order forms are no longer required to be furnished by the department. Dentists are required to obtain their own forms, but the board approves the form.

Speech-Language Pathology & Audiology - Chapter 468, Part I, F.S.

The bill clarifies that a master's degree or a doctor's degree with a major emphasis in speech-language pathology qualifies for licensure and requires a bachelor's degree for all speech-language pathology or audiology assistants.

Respiratory Therapy - Chapter 468, Part V, F.S.

The bill creates the Board of Respiratory Care in place of the Advisory Council of Respiratory Care. It also revises membership of the board, establishes that board in this part refers to the Board of Respiratory Care rather than the Board of Medicine, and provides that the board may adopt rules to administer this part.

Athletic Trainer - Chapter 468, Part XIII, F.S.

The bill converts the Council of Athletic Training composed of seven members reporting to the department to a Board of Athletic Training composed of nine members. It requires five of the council members to be athletic trainers, one member to be a physician licensed under ch. 460, a physician licensed under either chapter 458 or 459, and two members to be consumer; and provides for staggered terms. The board shall maintain its headquarters in Tallahassee. All council member terms are terminated on July 1, 1999. Council members may be considered for appointment to the new board.

Orthotics, Prosthetics, & Pedorthics - Chapter 468, Part XIV, F.S.

The bill provides a "grandfather" provision for certain professionals. Applicants who successfully completed, prior to March 1, 1998, at least half of the examination requirements for national certification, and completed the remaining portion prior to July 1, 1998, are "grandfathered" in and considered as nationally certified by March 1, 1998.

Certified Nursing Assistants - Chapter 468, Part XV

House Bill 2031 was added to HB 2125 to create part XV, chapter 468, F.S., to require the Department of Health to regulate the practice of certified nursing assistants in Florida. The bill provides requirements for certification. Additionally, the department is authorized to deny, suspend, or revoke certification of certified nursing assistants and to impose administrative penalties for the commission of prohibited acts specified in the bill.

Furthermore, the bill: authorizes the department to issue a letter of exemption from disqualification of certification; requires the department to maintain a registry of certified nursing assistants; provides for a first-degree misdemeanor penalty for a certified nursing assistant or applicant for certification who makes any false statement or fails to disclose information with respect to any voluntary or paid employment or licensure as a certified nursing assistant; gives the Department of Health access to the background screening registry for nursing home employees maintained by the Agency for Health Care Administration and the child abuse screening system maintained by the Department of Children and Family Services; requires each employer of certified nursing assistants to submit to the Department of Health a list of names and social security numbers of each person employed by the employer as a certified nursing assistant in a nursing-related occupation for a minimum of 8 hours for monetary compensation during the preceding 24 months; exempts an employer who terminates or denies employment to a certified nursing assistant whose certification is inactive as shown on the certified nursing assistant registry or whose name appears on the central abuse registry and tracking system of the Department of Children and Family Services or on a criminal screening report from the Florida Department of Law Enforcement from civil liability for the termination or denial; provides that any complaint or record maintained by the Department of Health pursuant to the discipline of a certified nursing assistant and any proceeding held by the department to discipline a certified nursing assistant shall remain open and available to the public; and authorizes the department to adopt rules for the implementation of part XV, chapter 468, F.S.

Electrolysis - Chapter 478, F.S.

The bill clarifies the definition of electrolysis to mean the permanent removal of hair by destroying the hair-producing cells using equipment and devices approved by the Board of Medicine and cleared by and registered with the U.S. Food and Drug Administration.

Clinical Laboratories - Chapter 483, Part I, F.S.

The bill expands the definition in s. 483.041, F.S., for clinical laboratories, by including specific services that are provided, and authorizes a clinical laboratory to accept an order from an out of state practitioner as long as the patient resides in the same state.

Clinical Laboratory Personnel - Chapter 483, Part III, F.S.

The bill revises several sections of law relating to this profession, mainly to conform clinical lab director qualifications to federal regulation, and strengthens and conforms grounds for disciplinary action to mirror provisions in other practice acts of professions regulated by MQA.

Medical Physicists - Chapter 483, Part IV, F.S.

The bill removes the provision for the issuance of a temporary license which is no longer necessary because the department is able to process applications in a timely manner.

Opticians - Chapter 484, Part I, F.S.

The bill provides that a licensed optician must have been licensed for at least one year prior to being able to supervise an apprentice.

Fitting/Dispensing of Hearing Aids - Chapter 484, Part II, F.S.

The bill provides that the period for a refund mirrors language that speech-language pathology and audiology have in their practice act, and requires a refund within 30 days of the return or attempted return of the hearing aid. Increases the penalty for the unlicensed practice of the profession from a second-degree misdemeanor to a third-degree felony.

Physical Therapy - Chapter 486, F.S.

The bill provides that a physical therapist may refer patients to or consult with licensed Advanced Registered Nurse Practitioners (ARNP), and revises several sections of statutes to repeal temporary license status.

Psychology - Chapter 490, F.S.

The bill amends a provision passed last year which provided that the date an applicant could submit to the board from prior to July 1, 2001, to August 31, 2001, and that the applicant was enrolled and graduated from a school, not accredited, but with a standard of education and training comparable to programs accredited by an agency recognized by the United States Department of Education; changes comparability from that determined by the board, to providing a certificate of comparability provided by the program director of an accredited doctoral-level psychology program; provides that a psychologist with a doctoral degree in psychology and has at least 20 years of experience as a licensee in any jurisdiction of the United States within 25 years preceding the date of application may be licensed in Florida; and provides that a

patient's psychological report may be released to an employer or insurance carrier.

Clinical Social Work, Marriage & Family Therapy, & Mental Health Counseling - Chapter 491, F.S.

The bill provides that applicants who register as interns on or before December 31, 2001, and meet the education requirements in effect on December 31, 2000, are deemed to have met the educational requirements for licensure and clarifies that an applicant may be issued a dual license and charged a fee.

Fiscal Intermediary Services - Sections 626.883 and 641.316, F. S.

The bill provides that all health care provider and health maintenance organization fiscal intermediaries are required to include a detailed explanation of services for payments to a health care provider.

REPORTS OF ADVERSE INCIDENTS/OFFICE SURGERY

House Bill 1847 was amended onto HB 2125 to establish that effective January 1, 2000, medical and osteopathic physicians must file reports of adverse incidents that occur in their offices within 15 days after the occurrence of the adverse incident; provides that adverse incidents include incidents resulting in the death of a patient, brain or spinal damage, performance of a surgical procedure on the wrong patient, performance of a wrong-site surgical procedure, and performance of a wrong surgical procedure; requires the report to be filed with the Department of Health, which determines whether disciplinary action is required against a licensee; and provides that if disciplinary action is necessary, it will be administered by the board which licensed the health care practitioner.

In addition, the Board of Medicine is granted rulemaking authority relating to standards of practice for office surgery and the department is authorized to require registration and inspection of offices where levels two and three office surgery is performed. The department will inspect the offices annually unless the office is accredited by a nationally recognized accrediting agency or an accrediting organization approved by the appropriate board.

RECREATIONAL SPORT DIVING

The bill requires the Department of Health to establish maximum levels of contaminants in compressed air used for recreational sport diving based on levels of contaminants allowed by the Grade "E" Recreational Diving Standards of the Compressed Gas Association. It requires compressed air vendors to collect a sample of air from their equipment and submit it to a laboratory certified by either the American Industrial Hygiene Association or the American Association for Laboratory Accreditation;

authorizes the department to issue certificates stating when vendors submitting samples meet the standards established by the department; provides that civil penalties are not to exceed \$500 for violations of the provisions of the bill; establishes that persons violating the provisions are liable for any damages resulting from the violation; and provides for exemptions from this legislation for any government entity using a governmentally owned compressed air source for work related activities, for any person providing compressed air for their own use, and for foreign registered vessels upon which a compressor is used to provide compressed air for work related to the operation of the vessel.

THE MINORITY HIV AND AIDS TASK FORCE

The bill establishes the Minority HIV and AIDS Task Force within the Department of Health. The task force will develop and provide recommendations to strengthen HIV and AIDS prevention and treatment programs in minority communities. The Secretary of the Department of Health will appoint at least 15 persons to the task force. Membership will include, but not be limited to: persons infected with HIV or AIDS; minority community-based support organizations; minority treatment providers; members of the religious community within groups of persons infected with HIV or AIDS; and the Department of Health. The task force is required to report research findings and recommendations to the Legislature by February 1, 2001. The task force will be abolished by July 1, 2001.

The bill also directs the Department of Health to develop and implement a statewide HIV and AIDS minority prevention campaign. Elements of the campaign are to consist of: television, radio, and outdoor advertising; public service announcements; and peer-to-peer outreach intended to reach minorities at risk of HIV infection.

The bill establishes four additional positions within the Department of Health. The regional minority coordinators will facilitate statewide efforts to implement and coordinate HIV and AIDS prevention and treatment efforts. The statewide coordinator will report findings, conclusions, and recommendations directly to the chief of the Bureau of HIV and AIDS within the Department of Health. In conjunction with the Minority HIV and AIDS Task Force and the Department of Health, the minority statewide coordinator will conduct a Black Leadership Conference on HIV and AIDS to convene by January 2000.

The bill provides an appropriation of \$250,000 from the General Revenue Fund for carrying out the provisions of the Minority HIV and AIDS Task Force.

TASK FORCE ON TELEHEALTH

The bill establishes a Task Force on Telehealth. The Secretary of Health is directed to appoint the members of this task force. The representation will include persons in the

various medical and allied health professions, as well as other affected health care industries.

The task force will review and research the various health care telecommunications and electronic communications providing healthcare information. In addition, the task force will identify laws, regulations, and reimbursement practices relating to telehealth practices.

The bill directs the task force to submit a report of findings and recommendations to the Legislature and Governor by January 1, 2000.

DEPARTMENT OF ELDERLY AFFAIRS

The bill provides that area agencies on aging within the Department of Elderly Affairs are subject to ch. 119, F.S., relating to public records, and when considering any contracts requiring the expenditure of funds, are subject to ss. 286.011-286.012, F.S., relating to public meetings.

CLINICAL LABORATORY SERVICES FOR KIDNEY DIALYSIS PATIENTS

The bill requires the Agency for Health Care Administration to conduct a detailed study and analysis of clinical laboratory services for kidney dialysis patients in the Florida. The study shall include: an analysis of the past and present utilization rates of clinical laboratory services for dialysis patients; financial arrangements among kidney dialysis centers, their medical directors, and any business relationships and affiliations with clinical laboratories; any self referral to clinical laboratory services for dialysis patients in Florida; and the average annual revenue for dialysis patients for clinical laboratory services for the past ten years. The agency shall report back to the President of the Senate, Speaker of the House of Representatives, and chairs of the appropriate substantive committees of the Legislature on its findings no later than February 1, 2000.

The effective date of the bill is July 1, 1999, except as otherwise expressly provided.

HB 2231 (PCB HCS 99-08)--Health Care by Health Care Services; Peaden and Others (CS/SB 2438 by Health, Aging and Long-Term Care; Latvala and Others)

House Committee(s) of Reference: Governmental Operations

This bill addresses several health care issues. Specifically, the bill:

- Amends the "Patient Self-Referral Act of 1992" (s. 455.654, F.S., 1998

Supplement) and addresses issues raised in the court opinion, *Agency for Health Care Administration v. Wingo*, 697 So.2d 1231 (1st DCA June 1997). Specifically, the bill amends the "Patient Self-Referral Act of 1992" to:

- Add definitions for: "diagnostic imaging services," "direct supervision," "outside referral for diagnostic imaging services," "patient of a group practice," "present in the office suite," and "sole provider."
- Authorize referrals to sole providers and group practices for diagnostic imaging services, excluding radiation therapy services, under certain circumstances, effective July 1, 1999. In order to accept such referrals, the sole provider or group practice must bill both the technical and the professional fee for or on behalf of the patient, if the referring physician has no investment interest in the practice. The diagnostic imaging service referred must be a diagnostic imaging service normally provided within the scope of practice of the sole provider or group practice. Such sole providers and group practices may accept no more than 15 percent of their patients receiving diagnostic imaging services from outside referrals, excluding radiation therapy services.
- Authorize sole providers and group practices to accept outside referrals for diagnostic imaging services provided certain conditions are met relating to practice employment, equity ownership, practice management, billing, Medicaid service delivery, and annual report requirements.
- Impose penalty provisions for those sole providers and group practices that violate the percentage requirements set above, consistent with existing penalty provisions under the Patient Self-Referral Act.
- Require the submission of an annual attestation by each managing physician member of a group practice and each sole provider to AHCA confirming compliance with referral limitations.
- Requires group practices providing diagnostic imaging services to register with AHCA. Specifies registration information to be included, and that registration be completed by December 31, 1999.
- Modifies the contingent effective date enacted in 1998, for the removal of the Public Medical Assistance Trust Fund (PMATF) assessment on outpatient radiation therapy services and freestanding radiation therapy centers. If the federal Health Care Financing Administration (HCFA) notifies AHCA in writing, between April 15, 1999, and November 15, 1999, that the removal of the assessment violates federal regulations, then the removal of the assessment is repealed. The repeal will take effect upon the date that the Secretary of State

receives notification from AHCA of the federal determination.

- Requires AHCA, in conjunction with other agencies as appropriate, to conduct a detailed study and analysis of clinical laboratory services for kidney dialysis patients in Florida; certain issues are specified for study; and AHCA must report its findings to the Legislature by February 1, 2000.
- Applies certificate-of-need statutes and AHCA rules to all providers of adult inpatient diagnostic cardiac catheterization programs, including specified national professional guidelines relating to such services.
- Clarifies the law relating to the sale or lease of a public hospital to a private entity without subjecting such an entity, unless otherwise expressly stated in the lease documents, to the Public Records Law or the Public Meetings Law; and further clarifies that under such a transaction the private lessee operating under a lease may not be construed to be “acting on behalf of” the public lessor.
- Allows a person to sue for treble damages, reasonable attorney’s fees, and costs for willful disclosure of the person’s confidential medical records and information.
- Contains clarifying and remedial language, effective retroactively to October 1, 1990, pertaining to the state’s Medicaid tobacco litigation that applies to all causes of action arising after October 1, 1990, under the Medicaid third-party liability law, to exempt from the guidelines for distribution of funds remaining from a recovery or other collection of monies from a responsible liable party on behalf of Medicaid-eligible persons, after all expenses are paid to reimburse the state and the federal government the requirement that the remainder of such funds be distributed to the recipient.
- Creates the Florida Community Health Protection Act to establish community health pilot projects in certain specified low-income rural and urban communities in Pinellas, Escambia, Hillsborough, Pasco, Manatee, Palm Beach, and Broward Counties, and the City of St. Petersburg; under the act, certain duties are delegated to the Department of Health, including preparation of a report to be submitted, by January 1, 2001, to the President of the Senate, the Speaker of the House of Representatives, and the Governor presenting findings, accomplishments, and recommendations of the pilot projects. (This was the substance of CS/SB 2352.)
- Requires exclusive provider organizations (EPOs) and health maintenance organizations (HMOs) to allow direct access for their female subscribers to a contracted obstetrician/gynecologist for one annual visit and medically necessary follow-up care detected during the annual visit, but authorizing EPOs

and HMOs to require such an obstetrician/gynecologist treating a covered patient to coordinate the medical care provided through the patient's primary care physician, if applicable. (This was the substance of CS/SB 1554.)

The effective date of the bill is July 1, 1999, except that sections 10 and 11, relating to establishment of the community health pilot projects, are effective October 1, 1999, and this effective date applies to contracts issued or renewed on or after that date.

HB 2239 (PCB HCS 99-06)--Medicaid
by Health Care Services and Peaden (CS/SB 2124 by Health, Aging and Long-Term Care and Saunders; passed as sections 66-71 and 189-191 of HB 2125 by Health Care Services and Peaden & Others)

This bill includes provisions designed to:

Provide language to enable the Agency for Health Care Administration to pursue a certified match program to use local and state Healthy Start funding to draw down federal matching funds in the event that the federal government does not approve the pending Healthy Start waiver request;

Amend the section of statute relating to Medicaid third-party liability to require health insurers and health maintenance organizations to develop the capability for tape matches for purposes of Medicaid file matches, using the Medicare standard billing format, to determine if Medicaid recipients might have any applicable insurance coverage;

Create the "Medicaid Estate Recovery Act," which codifies into statute Medicaid's estate recovery process;

Amend the section of statute relating to Medicaid provider service network demonstration projects as a cost-effective means of purchasing, to delete the requirement that one of the four demonstration projects be conducted in Orange County;

Authorize the Agency for Health Care Administration to withhold payments in whole or in part based on evidence of fraud, willful misrepresentation, or criminal activities associated with the delivery of Medicaid goods or services;

Delete existing limitations that the agency may only reduce payments up to 10 percent of amounts owed, or up to \$25,000 per month when an overpayment by the agency exceeds \$75,000;

Provide for prompt payment of withheld payments to providers once withholding

disputes are settled; and

Create a new section of statute that specifically addresses Medicaid program integrity issues in the context of Medicaid physician providers.

The effective date of the bill is July 1, 1999.

**HOUSE OF REPRESENTATIVES
PUBLIC RESPONSIBILITY COUNCIL
1999 SUMMARY OF PASSED LEGISLATION**



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Representative Gustavo A. Barreiro, Vice Chair*

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COMMITTEE ON GOVERNMENTAL RULES & REGULATIONS

*Representative Rob Wallace, Chair
Representative Suzanne Jacobs, Vice Chair*

***Representative Bill Sublette, Council Chair
May 1999***

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Committee on Community Affairs

1999 End-of-Session Summary

Bills that Passed Both Houses

CS/CS/HB 17, 3rd Engrossed--Community Revitalization by Water & Resource Management; Community Affairs; Constantine; Bradley and Others (CS/SB 1078 by Comprehensive Planning, Local and Military Affairs; Carlton; Klein and Others)

House Committee(s) of Reference: Community Affairs; Business Development & International Trade; Water & Resource Management; Transportation & Economic Development Appropriations

This bill creates the "Growth Policy Act," which authorizes municipalities and counties to designate urban in-fill and redevelopment areas based on specified criteria. Furthermore, the bill provides economic incentives for the urban in-fill and redevelopment areas. The bill creates an Urban In-fill and Redevelopment Assistance Grant Program to be used by local governments to develop community participation processes for the development of an urban in-fill and redevelopment plan. Matching grants funds are also provided for implementing urban in-fill and redevelopment projects that assist the goals identified in a local governments urban in-fill and redevelopment plan.

This bill also incorporates several recommendations of the Transportation Land Use Study Committee Report to address transportation concurrency requirements. Local governments are authorized to use professionally accepted techniques for measuring levels of service, and are authorized to establish multimodal transportation districts in local comprehensive plans. Furthermore, this bill allows "pipelining" for multi-use developments of regional impact (DRI). Pipelining allows certain multi-use developments of regional impact with a residential component to satisfy the transportation concurrency requirements of local comprehensive plans by payment of a proportional-share contribution for traffic impacts.

This bill provides procedures by which a county or a combination of counties and municipalities may develop and adopt plans to improve efficiency, accountability, and coordination of delivery of local government services. The bill provides new criteria for feasibility studies that are submitted in conjunction with proposals for incorporation of a municipality.

This bill makes several changes to Florida's affordable housing laws, which were the subject of HB 195. The changes: (1) clarify that certain low-income housing property are exempted from ad valorem taxation; (2) provide a state housing tax credit incentive to private corporations participating in urban revitalization projects, including housing

specifically designed for the elderly; (3) allow persons between the ages of 55 and 61 (inclusive) to qualify for housing for the elderly under certain conditions; and (4) authorize the Florida Finance Housing Corporation to adopt rules establishing a process for distributing certain unallocated funds under the State Apartment Incentive Loan (SAIL) program.

This bill creates the Urban Homesteading Act to allow a local government, or its designee, to operate a program making foreclosed single-family housing projects available for purchase to eligible buyers. The bill provides eligibility requirements and creates an application process with loans to qualified buyers.

In addition, this bill includes the substance of HB 2181, which amends existing law governing special districts and community development districts (CDDs).

This bill allows special assessments to be paid in no more than 30 yearly instalments, rather than 20 yearly installments. The bill allows water management districts to provide notice of staff meetings by publication in a newspaper of general paid circulation in the county where the principal office of the water management district is located.

This bill clarifies that a petition by the governing body of an existing special district for reestablishment as a CDD must contain information specified in the Florida Statutes and that the petition is not subject to the \$15,000 filing fee.

This bill provides that the Department of Community Affairs may provide, contract for, or assist in conducting education programs for elected or appointed members of district boards. The bill provides for certain courses. The bill provides an arrangement for payment of fees, if any, for the courses.

This bill allows the board of supervisors to keep the record book of proceedings within the boundaries of a development of regional impact (DRI) or a Florida Quality Development (FQD), or where there is a combination of a DRI or a FQD, that includes the district; and to maintain an office within the boundaries of a DRI or a FQD, that includes the district. The bill provides that the filing of the petition for expansion or contraction by the district board of supervisors constitutes consent of the landowners within the district whose land *is not* proposed to be added or removed from the district. The bill broadens the express powers section to include the power to establish, operate, and maintain buses, trolleys, transit shelters, ride-sharing facilities and service, parking improvements, and related signage; provides that the district also has power to establish, operate, and maintain conservation areas, mitigation areas, and wildlife habitat.

This bill specifies that benefit special assessments, maintenance special assessments, and special assessments are non-ad valorem assessments that constitute a lien on the property assessed. The bill establishes that liens be co-equal with liens of state,

county, municipal, and school board taxes. The non-ad valorem assessments are collected by the tax collector.

This bill requires that any board seeking to construct or improve a public building, structure, or other public works comply with the bidding procedures of s. 255.20, F.S. The bill requires that the district not only adopt rules, but policies and procedures for applying competitive bidding procedures.

This bill allows districts, initially established by county or municipal ordinance, to petition to amend their boundaries up to a cumulative total of 50 percent of the land in the initial district or a total of 500 acres. The district must include a statement, at the *initial* sale, disclosing that the CDD may impose and levy taxes and assessments on the property. A CDD must record in the property records a notice of establishment within 20 days after the effective date of the rule or ordinance establishing the district. CDDs in existence on the effective date of this act must record a notice of establishment within 90 days.

This bill amends the provision contained in s. 190.049, F.S., that was enacted in accordance with the provisions of Art. III, subsection 11(a)21, Florida Constitution, preventing the creation of certain independent special districts by special law or general law of local application. Under the provisions of Art. III, subsection 11(a)21, Florida Constitution, this section must receive a vote of three-fifths of the membership of each house of the Legislature in order to pass.

This bill appropriates \$2.5 million for Urban In-fill and Redevelopment Community Grants and \$2.5 million for state housing tax credits.

This bill takes effect on July 1, 1999.

CS/CS/HB 163, 2nd Engrossed--Local Government Code Enforcement

by Judiciary; Community Affairs; Crist; Bush; Roberts and Others
(CS/SB 946 by Comprehensive Planning, Local and Military Affairs;
Forman and Others

House Committee(s) of Reference: Community Affairs; Real Property & Probate;
Judiciary

This bill amends chapter 125, F.S. regarding County Government. It also amends part II of chapter 162, F. S., regarding Supplemental County or Municipal Code or Ordinance Enforcement Procedures. The bill contains a severability clause. If any of the provisions of the bill are found invalid, then the remaining provisions will not be affected by such a finding.

Under chapter 125, F.S., the bill provides that in cases of repeat violations found after a citation has been issued, the code inspector is not required to give a code or ordinance violator a reasonable time to correct the violation and may immediately issue a citation. A person is considered to have repeatedly violated a code or ordinance if he or she admits to violating the same provision within 5 years prior to the violation. It does not matter that the violations occurred in different locations. The bill revises the definition of "repeat violation."

Under chapter 125, F.S., the bill creates a new enforcement provision. The provision requires the owner of a property subject to an enforcement proceeding who transfers ownership of the property between the time the initial pleading was served and the time of the hearing to: (1) disclose the existence and the nature of the proceeding to the prospective transferee; (2) deliver to the prospective transferee a copy of the pleadings, notices, and other materials relating to the code enforcement proceeding received by the seller; (3) disclose to the prospective transferee that the new owner will be responsible for compliance with the applicable code and with orders issued in the code enforcement proceeding; and (4) file a notice with the code enforcement official of the transfer of the property, including the identity and address of the new owner and copies of the disclosures made to the new owner, within 5 days after the date of the transfer. In addition, the bill creates a rebuttable presumption of fraud when disclosure fails to occur before the transfer. To conform, this same provision is provided for under s. 162.06, F.S. dealing with enforcement procedures.

Under chapters 125 and 162, F.S., the bill authorizes the local government to make reasonable repairs on certain property if the code inspector has reason to believe a violation or there is a serious threat to the public health and welfare posed by the condition that caused the violation. The bill clarifies that there is no continuing obligation on the part of a local governing body to make further repairs or to maintain property it has repaired to bring the property into compliance. Also, the property does not create a liability against the local governing body for damage to the property if the repairs were made in good faith.

Under part II of chapter 162, F.S., provides a more specific matrix for determining fines based on population of the local governments to impose on code or ordinance violators. It also authorizes a code enforcement board or special master to impose additional fines to cover all costs incurred by the local government regarding enforcement of codes and repair costs. The bill provides additional conditions for notifying alleged violators by certified mail, return receipt requested.

Finally, the bill permits counties and municipalities to set rates for towing vehicles from or immobilizing vehicles on private property, or rates for the removal and storage of wrecked or disabled vehicles and other similar situations involving a vehicle. However, if a municipality chooses to enact an ordinance establishing the maximum fees [sic] for the towing or immobilizing vehicles as provided in this bill, the county rates will not apply within such municipality. The bill replaces the word "fees" with the word "rates" as it relates to towing and immobilization activities.

The effective date of the bill is October 1, 1999.

**HB 289--Local Government Infrastructure Surtax
by K. Smith and Others (SB 732 by Horne and Others)**

House Committee(s) of Reference: Community Affairs; Finance & Taxation; General Government Appropriations

This bill extends to charter counties the ability to use proceeds and any interest accrued from the Local Government Infrastructure Surtax (LGIS) to retire or service indebtedness incurred for bonds issued prior to July 1, 1987, for infrastructure purposes.

The bill also provides that any proceeds or interest from bonds issued subsequent to July 1, 1987 to refund bonds that were issued prior to July 1, 1987, may be utilized to retire or service indebtedness incurred for such refunding bonds. Additionally, the bill provides that all such actions that were taken by charter counties prior to July 1, 1998 are ratified.

The effective date of this bill is July 1, 1999.

**HB 297, 2nd Engrossed--Special-Purpose Zones
by Villalobos, Crist and Others (CS/CS/SB 214, 1st Engrossed, by
Local and Military Affairs, Commerce and Economic Opportunities;
Silver)**

House Committee(s) of Reference: Community Affairs; Governmental Rules & Regulations; Transportation & Economic Development Appropriations

This bill establishes a 10-year economic development program entitled the "Florida Empowerment Zone Program" within the Department of Community Affairs (DCA) in conjunction with the Federal Empowerment Zone Program.

The bill appropriates \$3.5 million to the DCA each fiscal year, for 10 years, beginning FY 1999-2000 for the purpose of funding local government awards under the Federal Empowerment Zone designation. The bill further authorizes DCA to adopt and enforce rules necessary to administer the program.

The bill extends the Urban High-Crime Tax credit program to qualified businesses located in that portion of Miami-Dade County designated as a federal empowerment zone. The bill also extends eligibility for the Rural Job Tax Credit Program to qualified businesses located in Immokalee.

The bill qualifies for enterprise zone designation, areas within Miami-Dade County designated as a federal empowerment zone, and the area of Immokalee designated as a rural enterprise community. Finally the bill, authorizes the creation of two new satellite enterprise zones outside of the boundaries of two existing enterprise zones that are located in Miami-Dade County and in the City of Bradenton.

The effective date of this bill is upon becoming law.

CS/HB 303--Florida World War II Veterans Memorial Trust Fund by Community Affairs; Turnbull and Others (passed as CS/SB 716 by Comprehensive Planning, Local and Military Affairs; Mitchell and Others)

House Committee(s) of Reference: Community Affairs; Health & Human Services Appropriations

This bill creates the Florida World War II Veterans Memorial Matching Trust Fund to be administered by the Department of Veterans' Affairs, for the purpose of receiving private contributions and matching state funds to build a Florida World War II Veterans Memorial.

The bill provides for a termination date of the trust fund and specifies that if the trust fund is terminated, the Department of Veterans' Affairs shall pay the outstanding obligations as soon as practicable. In that event, the Comptroller must close out and remove the trust fund from the state accounting systems.

The effective date of the bill is July 1, 1999, if HB 305 or similar legislation is adopted in the same legislative session or an extension thereof.

CS/HB 305--Florida World War II Veterans Memorial by Community Affairs; Turnbull and Others (passed as CS/SB 714 by Comprehensive Planning, Local and Military Affairs; Mitchell and Others)

House Committee(s) of Reference: Community Affairs; Health & Human Services Appropriations

The bill creates the "Florida World War II Veterans Memorial Act." The bill requires construction of a memorial to honor the residents of Florida who served in the Armed Forces of the United States during World War II.

The bill specifies that the memorial be located within the Florida Capitol Center Planning District (CCPD). The Commission on Veterans' Affairs (Commission) must

confer with the Capitol Center Planning Commission when considering the location of the memorial within the CCPD. The Commission must submit its recommendations for the location and design of the memorial to the Governor, the President of the Senate, and the Speaker of the House of Representatives on or before January 31, 2002.

Construction on the memorial must have begun by June 30, 2005, if sufficient funds are available in the Florida World War II Veterans Memorial Matching Trust Fund created by law. The bill requires that upon completion of the memorial, the Governor arrange an appropriate unveiling ceremony on a date that coincides with the anniversary of a significant event in the history of World War II.

The effective date of the bill is July 1, 1999, if HB 303 or similar legislation is adopted in the same legislative session or an extension thereof.

HB 313--Community Contribution Tax Credits by Fuller and Others (passed as SB 290 by Horne and Others)

House Committee(s) of Reference: Community Affairs; Insurance; Finance & Taxation; General Appropriations

House Bill 313 increases the total amount of Community Contribution Tax Credits that may be granted for programs outlined in ss. 220.183 and 624.5105, F.S. The annual increase of allowable credits is from \$5 million to \$10 million. The credits are granted against the corporate income tax and the insurance premium tax to corporations or insurers that participate in public revitalization projects such as enterprise zones.

The bill reduces General Revenue fund receipts by \$6.3 million in FY 1999-00 and by \$5.0 million in FY 2000-01.

The effective date of this bill is July 1, 1999.

CS/HB 401--Private Activity Bonds by Community Affairs; Ball (CS/SB 1252 by Commerce and Economic Opportunities; Kurth)

House Committee(s) of Reference: Community Affairs; Transportation & Economic Development Appropriations

This bill establishes a new bond allocation region consisting of Brevard and Volusia Counties. Since the state volume limitations are based on a population formula, these counties will compete for approximately \$19 million in bond allocations. Adding a new region provides Brevard and Volusia Counties better odds for bond allocations for their annual housing programs. The two counties in the new region are subject to the same

bond conversion criteria as provided by law. There appears to be no significant fiscal impact to the state in implementing the provisions of this bill.

The bill is effective upon becoming law.

**CS/HB 475, 1st Engrossed--Housing Facilities/Older Persons
by Community Affairs; Greenstein and Others (CS/SB 690 by
Comprehensive Planning, Local and Military Affairs; Campbell)**

House Committee(s) of Reference: Community Affairs; Real Property & Probate;
Elder Affairs & Long-Term Care

This bill effectively allows certain communities (homeowners' associations), which otherwise meet certain specified criteria, to qualify as "housing for older persons" under the Florida Fair Housing Act (chapter 760).

The bill amends Part IV, of chapter 420, F.S., regarding housing, to change the definition of "housing for older persons" in s. 420.503, F.S. As such, it effectively lowers the allowable age range of elderly persons to 55 through 61 (inclusive) who qualify for a housing project that qualifies for an exemption under the Fair Housing Act provided other requirements are met-- with regard to certain provisions within the Florida Housing Finance Corporation Act and with regard to prioritizing projects for Internal Revenue Code tax credits.

This bill appears to have a positive indeterminate fiscal impact or benefit to the state by indirectly assisting the state in meeting its housing needs for the elderly. This bill does not appear to have a fiscal impact on local government.

The bill is effective upon becoming law.

**HB 561, 1st Engrossed--Tax on Sales, Use & Other Transactions
by Fasano**

House Committee(s) of Reference: Community Affairs; Finance & Taxation; General
Government Appropriations

The bill creates sales and use tax exemptions for sales and leases to the following not-for-profit organizations:

- All qualified veterans' organizations and their auxiliaries;
- Consumer credit counseling organizations that provide free of charge, or at a substantially reduced cost, consumer credit counseling to a client population which is disadvantaged or suffers a hardship;
- Athletic event sponsors that: (1) are incorporated pursuant to chapter 617, F.S.; (2) hold a current exemption from federal corporate income tax liability

pursuant to s. 501(c)(3) of the Internal Revenue Code of 1986, as amended; and, (3) are funded primarily by county or municipal governments and have as their primary purpose the encouragement and facilitation of the use of certain locations within Florida as venues for sporting events;

- Organizations whose sole or primary function is to raise funds for another organization or organizations currently holding a consumer's certificate of exemption issued by the Department of Revenue;
- Certain nonprofit water systems (subject of HB 1925);
- Not-for-profit corporations which hold a current exemption from federal income tax under s. 501(c)(12) of the Internal Revenue Code, as amended, if the sole or primary function of the corporation is to construct, maintain, or operate a water system in this state; and,
- Library cooperatives certified under s. 257.41(2), F.S.

The bill also:

- Creates a sales and use tax exemption for works of art donated to educational institutions;
- Expands the sales tax exemption for schools preparing students for jobs in the motion picture industry to include leases of real property to the schools; and,
- Creates a sales and use tax exemption for the charge paid for the rental, lease, sublease, or license for the use of a skybox, luxury box, or other box seats for use during a high school or college football game in a high tourism impact county when the charge for such box seats is imposed by a nonprofit sponsoring organization.

The estimated fiscal impact of the bill, as amended, upon General Revenue is (\$4.7) million for FY 99-2000 and (\$5.1) million for FY 2000-2001. There will be a negative, but insignificant impact on the Solid Waste Management Trust Fund. The estimated fiscal impact upon local governments is (\$0.5) million for FY 1999-2000 and (\$0.5) for FY 2000-2001. The total estimated fiscal impact for this bill is (\$5.2) million for FY 1999-2000 and (\$5.6) million for FY 2000-2001.

The effective date of the bill is upon becoming law.

HB 573, 1st Engrossed--Camp Blanding/Post Exchange Store by K. Smith (SB 1136 by Kirkpatrick)

House Committee(s) of Reference: Community Affairs; Transportation & Economic Development Appropriations

The bill amends 250.10, F.S., authorizing the Adjutant General of the Florida National Guard to establish a post exchange store. The store serves members of the Florida National Guard and other authorized users and is located at the Camp Blanding

Training Site. Operation of the store must be in accordance with relevant provisions of the Florida Statutes and federal rules and regulations.

The bill permits the use of the Camp Blanding Management Trust Fund in the initial operations of the post exchange store. The bill mandates that profits, if any, from the post exchange store must be deposited in the Camp Blanding Management Trust Fund. The funds must be used for the enhancement of the facilities and services provided by the Camp Blanding Training Site.

The bill allows the Adjutant General to establish an account with a federally insured financial institution in the state to facilitate the operations of the post exchange store.

The effective date of the bill is upon becoming law.

CS/HB 587, 1st Engrossed--Platted Lands by Real Property & Probate; Henriquez (CS/SB 2300 by Regulated Industries; Sebesta)

House Committee(s) of Reference: Community Affairs; Real Property & Probate

The CS requires a new boundary survey for a replat only when improvements are made which may affect the boundary of the previously platted lands, rather than when any improvements have been made on the land to be replatted or on adjoining lands. It deletes the requirement that registered surveyors and mappers employed by the same certified legal entity prepare a boundary survey and plat. In certain counties survey markers, or "monuments," must be placed on the corners of a lot prior to the transfer of that lot. The bill revises the execution requirements for a dedication, requiring that the dedication be executed by all persons, corporations, or entities whose signature is required to convey record fee simple title to the lands being dedicated in the same manner in which deeds are required to be executed.

The effective date of the bill is July 1, 1999.

HB 605--Housing Finance Authorities/Bonds by Flanagan (SB 1744 by Lee)

House Committee(s) Reference: Community Affairs; Financial Services; Finance & Taxation

This bill allows a housing finance authority that did not receive a private activity bond allocation to still provide for its affordable housing mortgage loan program. To accomplish this, the bill grants a housing finance authority permission to refund bonds previously issued by another housing finance authority with the other authority's consent.

This bill does not have any direct fiscal impact to the state or local government. However, the bill appears to promote fiscal efficiency within the affordable housing industry as well as assist the state in meeting its increasing affordable housing needs.

The effective date of the bill is July 1, 1999.

**HB 621, 2nd Engrossed--Wireless 911 Telephone Services
by Logan; Maygarden and Others (SB 178, 1st Engrossed, by
Comprehensive Planning, Local and Military Affairs)**

House Committee(s) of Reference: Community Affairs; Governmental Operation; Utilities & Communications; Finance & Taxation; General Government Appropriations

This bill provides legislative findings, purposes, and intent. It provides definitions to include references to the Federal Communications Commission Orders that have been adopted in FCC Docket No. 94-102 and orders and rules subsequently adopted by the FCC relating to the provision of 911 services. It provides duties of the Department of Management Services with respect to the Wireless 911 Board.

This bill creates the Wireless 911 Board and provides the duties, membership, and powers of the board. It requires the board to report to the Governor and the Legislature each year. It requires completion of a study for submission to the Governor and the Legislature. It requires the board to retain an independent accounting firm for certain purposes. It provides a process for firm selection.

This bill imposes a monthly fee for certain 911 telephone service. It provides a rate and adjustment of the rate. It exempts the fee from state and local taxes. It prohibits local governments from imposing additional fees related to such service. It provides procedures for collecting the fee and remitting the fee to the board. It provides criteria for provision of certain services. It prohibits certain activities relating to wireless 911 telephone service and provides penalties. It provides that the act does not preempt other laws that regulate providers of telecommunications service.

The bill clarifies that the Wireless 911 Board has the authority to consider emerging technology and related cost savings.

An appropriation of \$18,711,000 to the Department of Management Services from the Wireless Emergency Telephone System Trust Fund for the 1999-2000 fiscal year is included in the bill. Of this sum, \$8,607,060 is distributed to counties, \$9,729,720 is distributed to 911 service providers, and \$374,220 is distributed to the Department of Management Services for administrative costs.

The effective date is July 1, 1999

CS/HB 647--Economic Development/Rural Areas by the Committee on Community Affairs; K. Smith (passed in CS/CS/ SB 1566, 2nd Engrossed, by Fiscal Policy; Community and Economic Opportunities; Kirkpatrick and Others)

House Committee(s) of Reference: Community Affairs; Finance & Taxation; Transportation & Economic Development Appropriations

The bill creates the "Rural Economic Development Enhancement Act."

The bill provides that local governments' future land use plans must include data in rural communities which demonstrates the need for job creation, capital investment and economic development. Furthermore, future planned industrial uses shall not be limited by population base or other factors relating to low density population.

The bill authorizes the Office of Tourism, Trade, and Economic Development (OTTED) to recommend to the Legislature additions to or deletions from the list of standard industrial classifications used to determine an eligible business for purposes of the Rural Job Tax Credit Program.

The bill adds a rural community definition to the tax refund program for qualified target industry businesses definitions and expands the requirements to become a target industry business.

The bill creates the Rural Economic Development Initiative to be administered by OTTED.

The bill authorizes OTTED to accept and administer funds appropriated for grants to assist rural communities to develop and implement economic development strategic plans and provides for a review of grant applications.

The bill authorizes the Department of Community Affairs (DCA) to establish a grant program to assist rural counties in financing studies regarding the establishment of municipal service taxing or benefit units. The bill also grants DCA rule-making authority.

This bill was passed in HB 1566.

HB 659--Local Government Comprehensive Planning by Merchant (passed as CS/SB 2380, 2nd Engrossed, by Comprehensive Planning, Local and Military Affairs; Rossin

House Committee(s) of Reference: Community Affairs; Education K/12

CS/SB 2380, 2nd Engrossed, provides that the limitation on amendments to a local government's comprehensive plan does not apply to amendments necessary to establish public school concurrency. It requires all local government public schools facilities elements within a county to be prepared and adopted on a similar time schedule. It revises requirements related to inclusion of school siting elements in comprehensive plans.

This CS provides guidelines for determining suitability of soils for septic tanks. It acknowledges the state land planning agency's responsibility to review and evaluate comprehensive plan amendments proposing location, installation, or use of on-site sewage treatment and disposal systems. It prohibits the state land planning agency from requiring the use of standards, conditions, or land-use restrictions that are more stringent than or have the effect of being more stringent than the applicable statutes or rules adopted by the Department of Health, the Department of Environmental Protection, or any other agency regarding or affected by the location, installation, or use of onsite sewage treatment and disposal systems and provides an exception to the prohibition.

This CS provides that certain public educational facilities are consistent with local comprehensive plans under certain circumstances.

This CS provides criteria for district school boards and local governmental entities to consider in determining hazardous walking conditions for students, etc.

This CS clarifies space requirements for certain publicly owned buildings located in community redevelopment areas.

The act becomes effective upon becoming a law.

HB 867, 1st Engrossed--Public Construction by Brummer and Others (CS/SB 1906 by Comprehensive Planning, Local and Military Affairs; Sebesta and Others)

House Committee(s) of Reference: Community Affairs; Business Regulation & Consumer Affairs; Education Appropriations

The bill amends current law regarding competitive bidding for local public construction work as follows:

- Requires counties, municipalities, special districts and political subdivisions to competitively award public electrical work contracts in excess of \$50,000.
- Provides that construction costs used to determine the \$200,000 threshold amount for competitive bidding, shall be *total* construction project costs.

- Requires that when the local governing board of the local government decides that it is in the best interest to award a project to a private sector contractor, that it do so upon consideration of specific substantive criteria and administrative procedures expressly set forth in a charter, ordinance, or resolution adopted prior to July 1, 1994.
- Adds that in the event that the project is awarded in a method other than a competitive bid, the governing board must find *evidence* that (1) there is one uniquely qualified licensed contractor and the work is of such a specialized nature that obtaining competitive bids is not possible, or (2) there are time constraints that are of no fault of the public owner or its agents.
- Requires that if the project is to be awarded by a method other than a competitive selection process, the architect or engineer of record has provided a written recommendation that the project be awarded to the private sector contractor without competitive selection and the considerations and justifications for the decision by the local government are documented in writing.
- Requires that for electrical work greater than \$50,000 which is begun after October 1, 1999, and is to be performed by a local government using its own employees, the local government use a licensed contractor.
- Adds a standing provision for a licensed contractor or vendor interested in submitting an offer to perform work under this section to sue the appropriate local government and provides that the prevailing party shall be entitled to recover its reasonable attorney's fees.

The effective date of the bill is October 1, 1999.

HB 975, 1st Engrossed--Hurricane Loss Mitigation Program by Feeney and Others (SB 872 by Latvala and Others)

House Committee(s) Reference: Community Affairs; Finance & Taxation; General Government Appropriations

This bill creates the Hurricane Loss Mitigation Program and provides for a \$7 million annual appropriations from the Florida Hurricane Catastrophe Fund to the Department of Community Affairs. At least 40 percent of the total appropriation must be used for mobile homes, including programs to inspect and improve tie-downs, construct and provide safety structures, and provide other means to reduce losses. In the second year of the program, at least 30 percent, and thereafter at least 20 percent must be used for such purposes. The bill also allocates 10 percent of the \$7 million appropriation to the State University System for hurricane research to support hurricane loss reduction devices and techniques for residences and mobile homes with regard to the development of credible data on potential loss reduction.

The bill requires the DCA to develop programs in consultation with an advisory council appointed by the Secretary of DCA. The council must consist of a representative from

the Department of Insurance, home builders, insurance companies, the Federation of Mobile Home Owners, the Florida Association of Counties and the Florida Manufactured Housing Association who is a mobile home manufacturer or supplier.

The DCA must report on the activities funded and evaluate the same on January 1, 2001, and January 1, 2002. The report and evaluation must be submitted to the House Speaker, Senate President, and the Majority and Minority Leaders of the House and Senate.

The effective date of the bill is July 1, 2000.

HB 1737--Tangible Personal Property Taxes by Representative Brummer and Others (passed in CS/SB 172, 2nd Engrossed, by Fiscal Resource; Horne and Others)

House Committee(s) of Reference: Community Affairs; Finance & Taxation; General Appropriations

This bill requires that the property appraiser grant an extension for filing a tangible personal property tax return for 30 days if a request is submitted. The bill authorizes an additional discretionary extension of up to 15 additional days. This is different from current law, as the property appraiser now has complete discretion to grant up to a 45-day extension. Although this bill does not change the maximum amount of days allowed for the extension (45 days), it does limit the property appraiser's discretion to only 15 days. Upon filing a request for an extension, a taxpayer will receive, at a minimum, a 30-day extension. This period may be extended for an additional 15 days at the discretion of the property appraiser.

The bill prohibits the property appraiser from requiring a request for extension more than 10 days prior to the tax return's due date.

The bill revises the requirements relating to the extension request by allowing any or all of the following information to be included in the request: name of the taxable entity, tax identification number, and the reason a discretionary extension is granted. The required information is at the option of the property appraiser.

HB 1737 died in the Senate Committee on Comprehensive Planning, Local and Military Affairs on April 30, 1999. However, HB 1737 can be found in section 2 of CS/SB 172, 2nd Engrossed.

The effective date of CS/SB 172, 2nd Engrossed, is July 1, 1999.

HB 1771--Local Govt./Tax Certificates & Deeds by Sublette (passed as SB 1534, 1st Engrossed, by Meek)

House Committee(s) of Reference: Community Affairs; Finance & Taxation

SB 1534, 1st Engrossed, clarifies language relating to the county extending or modifying leases. In addition, boards of county commissioners are authorized to sell real property that is of insufficient size and shape for a building permit for any type of development, and is of such a size, shape, and location that the board determines it is only of use to one or more adjacent property owners.

The bill increases the authorization of board of county commissioners to sell any parcel of real property from property valued at less than \$5,000 to property valued at less than \$15,000. The property must be of such a size, shape, and location that the board determines the property is only of use to one or more adjacent property owners.

The bill changes the event which starts the 90-day period in which the county may purchase land which was not purchased at a public sale. The bill provides that the 90 days begin when the land is listed on the "lands available for taxes" list, not 90 days after the day of offering for public sale. The bill clarifies who may purchase the property after the 90 days has run to specify the county and any other governmental unit. The bill allows the omitted years' taxes (taxes which have not been extended against parcels on the list are treated as omitted taxes) to be canceled by the board of county commissioners if a governmental body purchases the property for its own use.

The bill provides that the board of county commissioners may cancel county-held tax certificates and omitted years' taxes on properties acquired by the county for the express purpose of providing in-fill housing. The bill prohibits the transfer of property acquired for in-fill housing from being transferred to a taxpayer who failed to pay the delinquent taxes or charges that led to the tax certificate or lien. The bill defines taxpayer to include taxpayer's family or any entity in which the taxpayer or taxpayer's family has an interest. The bill also provides that property acquired by the county for delinquent taxes, when such property is acquired for in-fill housing, does not have to be conveyed to a municipality even if located in the municipality.

The bill provides that property acquired by the county for delinquent taxes, when such property is acquired for in-fill housing, does have to be conveyed to a municipality even if located in the municipality. This applies to tax certificates issued after July 1, 1999.

In addition, the bill includes the substance of HB 231, which provides for a partial refund of taxes levied in 1998 and 1999 on residential property destroyed or damaged by forest fire, hurricane, tropical storm, sinkhole, or tornado, which is not capable of being used or occupied. To qualify for such tax abatement or refund, the residential house must be incapable of being used and occupied. Property owners must file an application with the property appraiser before August 15, 1999 for any damages arising

in 1998, and by June 1, 2000 for any damage occurring between January 1, 1999 and April 30, 1999. Failure to make such timely application constitutes a waiver of any claim for a partial abatement or refund under this bill.

In turn, the property appraiser must determine whether the property is eligible for a partial abatement or refund, and submit an official written statement to the tax collector with the following information:

- The number of months the residential house was not capable of use and occupancy;
- The value of the residential house before the damage or destruction;
- The total taxes due on the residential house, based on the ratio that the number of months of loss of use and occupancy bears to 12; and
- The amount of abatement or refund in taxes.

The tax collector must abate or refund the taxes on the property shown on the tax collection roll in the abatement or refund amount specified by the property appraiser. By September 1, the tax collector must notify the Board of County Commissioners and the Department of Revenue of the total reduction in taxes resulting from the partial abatement or refund of taxes granted in the county. This section of the bill expires October 1, 2000.

The effective date of this bill is upon becoming a law.

HB 1963--Enterprise Zones

by Dennis (passed in CS/CS/SB 1566, 2nd Engrossed, by Fiscal Policy, Commerce and Economic Opportunities; Kirkpatrick and Others)

House Committee(s) of Reference: Community Affairs; Governmental Rules & Regulations; Finance & Taxation; Transportation & Economic Development Appropriations

This bill directs the Office of Tourism, Trade and Economic Development to designate a pilot project area within an enterprise zone and specifies qualifications such area must meet. Furthermore, the bill provides for sales tax and corporate income tax credits for \$1 million annually.

CS/CS/SB 1566, 2nd Engrossed, becomes law, unless otherwise provided in the bill, on July 1, 1999.

HB 2079--Florida Clean Air Act

by Gay and Others (passed in CS/CS/SB 1270, 3rd Engrossed, by Fiscal Policy; Transportation; Casas; Forman)

House Committee(s) of Reference: Community Affairs; Environmental Protection; Governmental Operations; Transportation & Economic Development Appropriations

These provisions establishes the Clean Air Florida Advisory Board (board) to study the use and implementation of alternative fuel programs for Florida. The board must develop recommendations to the Florida Legislature on future alternative fuel vehicle programs. Also, the board must make recommendations for establishing pilot programs for Florida that provide "experience and support the best use expansion of the alternative fuel industry." The provisions have an insignificant fiscal impact.

CS/CS/SB 1270, 3rd Engrossed, unless otherwise provided in the bill, takes effect upon becoming a law.

Committee on Election Reform

1999 End-of-Session Summary

Bills that Passed Both Houses

HB 125--Candidates for Public Office

by Election Reform; Alexander and Others (SB 866 by Lee)

House Committee(s) of Reference: Election Reform; Governmental Operations

This bill requires a subordinate officer, deputy sheriff, or police officer to resign effective upon qualifying to run for public office against his or her incumbent superior who has sought reelection. If the subordinate officer, deputy sheriff, or police officer is seeking public office but not against his or her superior, that subordinate officer, deputy sheriff, or police officer must take a leave of absence without pay during the period of his or her candidacy.

This bill will become effective upon becoming a law.

HB 281, 1st Engrossed--Election Protest & Contests

by Detert and Others (CS/SB 822 by Ethics and Elections; Carlton)

House Committee(s) of Reference: Election Reform; Judiciary

This bill is the result of an interim project that was done in 1997. The bill revises the time-frames for filing an election protest, request for manual recount, and election contests. In addition, the bill deletes the "protest of election returns in circuit court" cause of action and merges the broader provisions of this cause of action with the "election contest" procedure. The grounds for contesting an election are specified and more detail is provided regarding the actual procedure of filing an election contest. The bill codifies that jurisdiction to hear a contest of the election of a member to either house of the Legislature is vested in the applicable house in accordance with its rules.

The effective date of the bill is July 1, 1999.

HB 1463--Elections/Lieutenant Governor

by Election Reform; Flanagan and Others (passed as CS/SB 752 by Ethics and Elections; Ethics and Elections and Others)

House Committee(s) of Reference: Election Reform; Governmental Operations

This bill implements the recent changes to Article IV, Section 5(a), of the Florida Constitution, which allows gubernatorial candidates to run without designating a

running mate in the primary elections. The bill provides that the gubernatorial candidate has the option of designating his or her Lieutenant Governor running mate after the second primary election, thus permitting the consideration of candidates who were eliminated during the primary process. Further, this bill provides for ballot language on primary election ballots and advance absentee ballots for general election if candidate for Lieutenant Governor has not been designated by time certain; allows an exception to s. 100.111, F.S., known as the "Sore Loser Law," allowing a candidate who has qualified for public office and has either withdrawn or been eliminated to be designated as candidate for Lieutenant Governor.

The bill shortens the time-frame for certifying election results for the second primary to allow gubernatorial candidates time to choose and qualify a running mate. Candidates for Lieutenant Governor will not be required to pay a separate qualifying fee or obtain signatures on petitions.

The effective date of the bill is January 1, 2000 (chapter 99-140, L.O.F.).

HB 2109--Elections (Ballot Access for Minor Party Candidates and Candidates with No Party Affiliation)
by Election Reform; Flanagan and Others (passed as SB 754 by Ethics and Elections and Others)

House Committee(s) of Reference: Election Reform; Governmental Operations

This bill implements changes to Article VI, Section 1 of the Florida Constitution that were made with the passage of Constitutional Revision No. 11. Specifically, the bill reduces the petition requirement for the alternative method of qualifying for all candidates. Major party candidates, candidates with no party affiliation, and minor party candidates may obtain petitions equal to one percent (1%) of the registered voters of the jurisdiction represented by the office sought. The requirement that signatures only be obtained from registered voters of the candidate's party has been eliminated.

The bill also provides that minor party candidates and candidates with no party affiliation may either pay or petition to obtain a position on the general election ballot.

This bill will become effective upon becoming a law.

HB 2163--Judicial Selection
by Election Reform; Flanagan (CS/SB 1210 by Judiciary; Grant)

House Committee(s) of Reference: Election Reform

This bill implements changes to Article V, Subsections 10, 11(a)-(b) of the Florida Constitution that were made with the passage of Constitutional Revision No. 7. Specifically, the bill provides for the local option for selection of circuit and county court judges by election or merit selection and retention. The bill provides that the voters of each judicial circuit or county must be provided the opportunity to determine if circuit or county court judges will be elected by the voters or appointed through merit selection and retention.

In addition, the bill establishes the process by which the issue will be placed on the ballot. The bill requires that the 2000 general election ballot present to the voters the opportunity to change from election of judges to merit selection and retention. After the 2000 general election, the method of selection of circuit or county court judges may be placed on the ballot through the petition process.

This bill has an effective date of January 1, 2000.

**HB 2263--Nonpartisan Elections (of School Board Members)
by Election Reform; Flanagan** (passed as SB 756, 2nd Engrossed,
by Ethics and Elections and Others)

House Committee(s) of Reference: Election Reform

This bill implements changes to Article IX, Section 4(a) of the Florida Constitution that were made with the passage of Constitutional Revision No. 11. Specifically, the bill provides for the nonpartisan election of school board members. The only chapter in the Florida Election Code which specifically details nonpartisan elections is chapter 105, F.S., *Nonpartisan Elections for Judicial Officers*.

The bill amends chapter 105, F.S. to apply to candidates for school board. School board candidates will qualify by paying a qualifying fee of 4% of the annual salary, to be deposited in the Elections Commission Trust Fund, unless the candidate chooses to qualify by the alternative method. Nonpartisan candidates who use the petition method of qualifying will not be required to state that the filing fee imposes an undue burden on their personal resources, or on resources otherwise available to them.

The names of the qualified candidates will appear on the first primary election ballot. If no candidate receives a majority of the votes in the first primary, the two candidates with the highest number of votes will have their names printed on the general election ballot. The bill repeals s. 230.08, F.S., which provides for school board members to be nominated by political parties holding primary elections.

The effective date of this bill is January 1, 2000.

Committee on Governmental Operations

1999 End-of-Session Summary

Bills that Passed Both Houses

CS/HB 1, 3rd Engrossed--State Agency Performance Report by Governmental Operations; Posey and Others (CS/SB 228 by Fiscal Policy; Webster)

House Committee(s) of Reference: Governmental Operations; Financial Services;
General Appropriations

This bill requires each state agency's annual performance report to include a one page summary of agency performance, to include:

- A notation of the total of all moneys which came into the jurisdiction of each agency;
- Line-items for programs provided by each agency, including their sub-units and contractors;
- Total amounts spent for each program;
- Amounts spent in each program output measure (when such measures are available), expressed in terms of cost per unit;
- Amounts spent for major services and products (when output measures are not available), expressed in terms of cost per unit.
- Separate line items for total reversions;
- Separate line items for total pass-throughs to entities over which agencies have no authority or responsibility.

The bill provides for disincentives for failing to submit the required one page summary forms.

The bill provides for the Executive Office of the Governor, in cooperation with other organizations, to provide instructions for the unit cost summaries, including interim instructions for a phase-in year.

The bill provides that the Office of Program Policy Analysis and Governmental Accountability will receive a copy of each agency's annual performance report.

The bill provides for the Florida Financial Management Information System Coordinating Council to make recommendations concerning enhancements to the Florida Accounting Information Resource Subsystem which would support agencies in their unit cost reports.

The bill requires appropriation by the Legislature to expend revenues generated by taxes or fees imposed by amendment to the State Constitution after October 1, 1999.

The bill provides that area agencies on aging are subject to ss. 286.011-286.012, F.S., when considering any contracts requiring the expenditure of funds.

The effective date of this bill is July 1, 1999.

HB 73--LES Dept./Reorganization

by Merchant and Others (passed as CS/CS/SB 230, 2nd Engrossed, by Commerce and Economic Opportunities; Governmental Oversight and Productivity; Webster)

House Committee(s) of Reference: Governmental Operations, Governmental Rules & Regulations, General Government Appropriations

The second engrossed version of Committee Substitute for Committee Substitute for Senate Bill 230 reorganizes the Department of Labor and Employment Security and provides authority for the reorganization of the Department of Education by the Commissioner of Education.

The bill provides that the Department of Labor and Employment Security is to operate in a decentralized fashion. All actions required by the reorganization are to be accomplished within available appropriations and existing resources of the department. The secretary is to appoint two assistant secretaries with specified jurisdictional areas. The secretary is also to appoint a comptroller, whose duties are defined in the bill. Additionally, special offices are created within the department to house the General Counsel and Inspector General. Five field offices are established in Panama City, Lake City, Orlando, Tampa and Miami. The Division of Jobs and Benefits is renamed the Division of Workforce and Employment. Statutory authority creating the Unemployment Appeals Commission is deleted from s. 20.171, F.S., and recreated in chapter 443, F.S.

The jurisdiction of the Division of Safety is limited to public sector employers. Further, statutory authority for the Division of Safety is repealed effective July 1, 2000, and the department is required to conduct a study on the proposed reauthorization of the division by January 1, 2000. The brain and spinal cord injury program is transferred to the Department of Health by a type two transfer effective July 1, 2000. The Division of Blind Services is transferred by a type two transfer to the Department of Education effective January 1, 2001.

The Occupational Access and Opportunity Commission is created and is to be housed in the Department of Education. It is to develop the federally required vocational rehabilitation plan, contract with an administrative entity that will support the commission's work, and receive federal funds as the state's vocational rehabilitation agency. The Department of Labor and Employment Security, Division of Vocational Rehabilitation, must comply with the transitional direction of the plan. If the commission does not designate the division as the administrative entity for implementing the plan,

then all the powers, funds, property and equipment of the division's component programs shall be transferred to the designated administrative entity by type two transfer.

The department is to contract with one or more consumer reporting agencies to provide creditors with secured electronic access to quarterly wage reports submitted by employers pursuant to the unemployment compensation law.

The Commissioner of Education is to appoint a deputy commissioner for technology and administration. The Commissioner of Education is authorized to reorganize the Department of Education and must report on the reorganization to the Legislature by January 1, 2001. The Department of Education is also appropriated \$500,000 from the General Revenue Fund.

Except where otherwise provided in the bill, the effective date of the bill is October 1, 1999.

HB 169--Treasurer/Deferred Compensation Plan
by Turnbull and Others (passed as SB 326, 1st Engrossed, by Thomas)

House Committee(s) of Reference: Governmental Operations; Financial Services; General Government Appropriations

This bill prohibits fees received from deferred compensation participants from being transferred to the General Revenue Fund, and requires that such fees be used to operate the deferred compensation program.

The effective date of this bill is upon becoming a law.

CS/HB 223--Governmental Conflict Resolution
by Community Affairs; Constantine and Others (SB 1076 by Webster)

House Committee(s) of Reference: Governmental Operations; Community Affairs

This bill requires disputing governmental entities to first attempt to resolve their conflicts without litigation before continuing with court proceedings.

This bill changes how intergovernmental disputes are governed in the following ways:

- Expands the scope of those governmental entities to be regulated, so as to include local and regional governmental entities (not just counties and municipalities).
- Establishes procedures and requirements for conflict resolution proceedings, which, except in certain specified circumstances, must be exhausted by the governmental entity initiating the lawsuit before court proceedings are continued.
- Provides for procedures and requirements for conflict assessment meetings, joint public meetings, mediation, and final conflict resolution.

The effective date of this bill is upon becoming a law.

**CS/HB 243--Public Works Projects/Suits
by Governmental Operations; Trovillion and Others** (passed in combined CS/HB 311, CS/HB 243, 1st Engrossed, by Judiciary; Fuller and Others)

House Committee(s) of Reference: Governmental Operations; Judiciary; Transportation & Economic Development Appropriations

This bill specifies conditions under which suits may be brought by and against public authorities on any contract claim arising from breach of an express provision or an implied covenant of a written agreement or written directive on a public works project at which the public authority requires a performance bond. In any such suit, both the public authority and the contractor shall have the same rights, obligations, remedies and defenses as a private person, except for liability based on an oral modification.

This bill provides that public authorities which are parties to the suit do not waive sovereign immunity from equitable claims and remedies.

The effective date is upon becoming law, and will apply to contracts entered into on or after July 1, 1999.

**CS/HB 261, 1st Engrossed--Firefighters & Policy Pension TF
by Governmental Operations; Pruitt; Fasano and Others** (SB 380, 1st Engrossed, by Webster)

House Committee(s) of Reference: Governmental Operations; Finance & Taxation

This bill revises chapters 175 and 185, F.S., relating to fire and police pension plans, to apply minimum benefits and standards to all plans funded under the chapters. This bill also modifies current law to:

- Allow members to retire after 25 years service and reaching age 52; allow up to the current 5 years credit for a military leave of absence; specify that employers can set a benefit factor above 2 percent; and clarify provisions on refund of contributions.
- Modify provisions related to funding, contributions, and other fiscal matters to lower the minimum employee contribution to 0.5 percent; provide time frames for deposit of contributions; retain the provision allowing employers to delay meeting minimum standards until state funding is available; and define the term “extra benefits.”
- Define terms and clarify provisions to assure parity between firefighters and police; remove discriminatory provisions; and update references to the Florida Retirement System (FRS) in response to a 1995 law that allowed cities and special districts to withdraw from the FRS and establish a local plan (which may be a 175/185 plan).
- Clarify provisions related to pension boards to eliminate combined plans which include general employees; provide for board representation in combined police and firefighter plans; specify voting requirements; and authorize boards to hire or use independent consultants, legal counsel, actuaries, and other technical advisors.
- Modify provisions related to plan administration to increase the asset level at which annual audits are required; provide for three-year valuation schedules; and streamline reporting requirements.
- Establish a 75-percent joint-and-survivor payment option; clarify beneficiary provisions; allow disabled retirees to elect regular benefit payment options; increase the threshold for lump-sum payments; and clarify plan termination requirements.

The effective date of this bill is upon becoming a law (chapter 99-1, L.O.F.).

HB 357, 2nd Engrossed--Hospital Meetings & Records **by Fasano (CS/SB 1012 by Health, Aging and Long-Term Care;** **Carlton)**

House Committee(s) of Reference: Governmental Operations; Community Affairs

This bill defines in detail the term “strategic plan” of hospitals which are subject to Florida public records laws for purposes of confidentiality of such plans and of meetings related to such plans. It expands the current hospital public meetings exemption to include not only when a strategic plan is discussed or reported on, but also when it is being modified or approved.

The bill authorizes the release of the transcripts of such meetings earlier than the statutory three years if the strategic plan has been publicly disclosed by the hospital or implemented to the extent that the circumstances do not require the transcript of the meeting to remain confidential.

The bill provides a public necessity statement for the exemptions in s. 395.3035, F.S., dealing with the confidentiality of public hospital records and meetings.

The exemption is made subject to the Open Government Sunset Review Act of 1995 and stands repealed on October 2, 2004, unless reviewed and reenacted by the Legislature.

The effective date is upon becoming a law.

**HB 619--Sales Tax/Manufactured Asphalt
by Logan and Others** (passed as SB 1296, 1st Engrossed, by Sullivan and Others)

House Committee(s) of Reference: Governmental Operations; Finance & Taxation; Transportation & Economic Development Appropriations

The bill exempts manufactured asphalt which is used for state or local public works projects from the indexed tax imposed by s. 212.06, F.S.

The effective date of this bill is July 1, 1999.

**HB 885, 1st Engrossed--FRS/Judge of Compensation Claims
by Boyd and Others** (CS/SB 724, 1st Engrossed, by Governmental Oversight and Productivity; Silver)

House Committee(s) of Reference: Governmental Operations; General Appropriations

Effective July 1, 1999, participation in the Senior Management Service Class is compulsory for any member of the Florida Retirement System who is employed as a judge of compensation claims with the Office of the Judges of Compensation Claims within the Department of Labor and Employment Security. In lieu of participating in the Senior Management Service Class, a judge of compensation claims may participate in the Senior Management Service Optional Annuity Program.

This bill also provides that in lieu of participation in the Senior Management Service Class, members of the Senior Management Service Class may withdraw from the Florida Retirement System altogether. The decision to withdraw from the Florida Retirement System shall be irrevocable for as long as the employee holds such a position. Any service creditable under the Senior Management Service Class shall be retained after the member withdraws from the Florida Retirement System; however, additional service credit in the Senior Management Service Class shall not be earned after such withdrawal. Such members shall not be eligible to participate in the Senior

Management Service Optional Annuity Program (this provision is the essence of HB 61 by Lynn).

The effective date of this bill is July 1, 1999.

**CS/HB 1013--FRS Preservation of Benefits Plan
by Governmental Operations; Bloom and Others** (CS/SB 1856 by
Governmental Oversight and Productivity; Silver)

House Committee(s) of Reference: Governmental Operations; General
Appropriations

This bill CS/HB 1013 creates the Florida Retirement System Preservation of Benefits Plan to provide retirement benefits that would otherwise be limited by the maximum benefit limitations of s. 415(b) of the Internal Revenue Code. This bill will provide an approved mechanism for FRS retirees to receive the retirement benefits they have earned and for which retirement contributions have been paid. CS/HB 1489, the traveling trust fund bill, creates a separate trust fund referred to as the "Florida Retirement System Preservation of Benefits Plan Trust Fund" for the purpose of providing retirement benefits that would otherwise be paid from the Florida Retirement System except for the maximum benefit limitations of s. 415(b) of the Internal Revenue Code.

The effective date of these bills is July 1, 1999.

**CS/HB 1707, 1st Engrossed--Management Services Department
by General Government Appropriations; Governmental
Operations; Posey and Others** (CS/CS/SB 2410 by Fiscal Policy;
Governmental Oversight and Productivity; Webster)

House Committee(s) of Reference: Governmental Operations; General
Governmental Appropriations

This bill updates organizational structure changes to the Department of Management Services resulting from the implementation of Performance-Based Program Budgeting (PB²); and makes technical changes to several state employment service programs overseen by the agency.

This bill also clarifies and corrects statutory cross references where necessary; increases the cap on meritorious service awards; deletes a requirement for certain reports; recognizes the service of volunteers and provides a limitation on volunteer awards; provides for a uniform appraisal system for employees and positions in the selected exempt service; exempts certain leases from the competitive bidding process; revises the threshold

for leased space facility requirements; provides for the disbursement of moneys received from disposition of state-owned tangible personal property; increases purchasing category threshold amounts; requires a report on break-even mileage to be submitted biennially to agency inspectors general; requires a report from agency heads on employee use of state motor vehicles; provides criteria to be followed by an agency head in assigning a state-owned motor vehicle to an employee; deletes obsolete language from the statutes; repeals a pilot program that terminated the state air contract and authorizes the department to negotiate air services to and from Tallahassee and other cities; provides senior management service status for certain positions in the Governor's Office; clarifies the department's responsibility for implementing the Law Enforcement Radio System; repeals s. 110.207(1)(g), F.S., relating to statewide planning of career service broad-banding compensation and classification; requires certain pay implementations to be subject to review and recommendation by the Department of Management Services and approval by the Office of Planning and Budgeting; repeals s. 59(4) of SB 2502, enacted in the 1999 Regular Session of the Legislature, relating to performance measures for the Florida Public Service Commission; provides that effective July 1, 1999, any legislative member who terminates his or her elected service after July 1, 1999, after having vested in the state retirement system, may purchase coverage in the state group health insurance plan at the same premium cost as that for retirees and surviving spouses; provides such legislators may also elect to continue coverage under the group term life insurance program prevailing for current members at the premium cost in effect for that plan; and directs the department to seek proposals for the use or transfer of a specified state residential public education facility, and requiring the department to take steps to preserve the facility.

The effective date of this bill is upon becoming a law.

**CS/HB 1831--Statewide Drug Control
by Governmental Operations; Feeney** (passed as CS/CS/SB 1468 by
the Fiscal Policy; Criminal Justice; Brown-Waite)

House Committee(s) of Reference: Governmental Operations; Transportation &
Economic Development Appropriations

This bill creates a state Office of Drug Control, with a director appointed by the Governor, and a Statewide Drug Policy Advisory Council within the Executive Office of the Governor. The bill provides support, duties and responsibilities of each, along with an fiscal appropriation.

The effective date of this bill is upon becoming a law.

HB 1883, 2nd Engrossed--State-Administered Retirement by Governmental Operations; Posey and Others (SB 2530, 1st Engrossed, by Webster)

House Committee(s) of Reference: Governmental Operations; Governmental Rules & Regulations; General Appropriations

This bill comprises miscellaneous retirement legislation necessary for the Division of Retirement to adequately manage and administer the retirement programs for which it has responsibility. It provides for the division to review and comment on local government retirement system actuarial valuation reports and impact statements on a triennial basis; it provides that required payments based on the most recent actuarial valuation are subject to being state-accepted; it modifies the current limitation on benefits for service under more than one retirement system or plan; it clarifies requirements related to consolidation of existing retirement systems and preservation of rights; it redefines "creditable service" to conform the definition to existing law; it clarifies creditable service provisions for certain school board employees; authorizes the Division of Retirement to adopt rules; and establishes in statute the Florida Retirement System Actuarial Assumption Conference and designates the principals of the conference to develop consensus information with respect to the economic and non-economic assumptions and funding methods of the Florida Retirement System.

This bill reenacts certain sections of the Florida Statutes as a result of recent court action. The reenacted sections include: Florida Retirement System membership status of blind vending facility operators; Florida Retirement System membership eligibility and retirement contribution payments for blind vending facility operators; and legislation relating to 1996 contribution rates. It establishes changes in contribution rates for classes and subclasses of the system, effective July 1, 1999, based on the 1998 annual actuarial valuation of the FRS; corrects errors; conforms provisions relating to de minimis accounts to federal law; clarifies provisions relating to past service and prior service; clarifies proof of disability requirements; modifies provisions relating to death benefits to permit purchase of certain retirement credit by joint annuitants and clarifies the contribution rate and interest required to be paid for such purchases; updates and corrects references; authorizes the State Retirement Commission to adopt rules related to their specific duties; repeals s. 121.027, F.S., as created by chapter 97-180, L.O.F., which gave rule-making authority to the Division of Retirement for administering all of the provisions of chapter 97-180, L.O.F.; provides that the Board of Trustees of the State Board of Administration shall review the actuarial valuation report and the process by which FRS contribution rates are determined and recommend and submit any comments regarding the process to the Legislature; providing presumptions that certain illnesses incurred by state law enforcement officers are done so in the line of duty; providing that with respect to municipal firefighters' and police officers' retirement trust funds that the board of trustees may invest in corporations on the National Market System of the Nasdaq Stock Market; increasing the age at which a Special Risk Class Member must elect whether

to participate in the Deferred Retirement Option Program; redefining the term “special risk member”; adding to the Special Risk Class of membership certain emergency medical technicians and paramedics; and providing a declaration of important state interest with regard to this legislation.

This bill also provides that it is the intent of the legislature to review the current benefits provided under the Florida Retirement System during the 2000 Legislative Session. To this end, prior to February 1, 2000, the Senate Fiscal Policy Committee, the Senate Governmental Oversight and Productivity Committee, the House Governmental Operations Committee and the House General Appropriations Committee will review the current Florida Retirement System and make recommendations to the presiding officers regarding the costs and benefits of alternative retirement plan options on both the employers and employees. These recommendations shall include a defined contribution plan.

The effective date of this bill is upon becoming a law, except that the reenacted subsections shall operate retroactively to June 7, 1996, and except that the amendments to paragraph (c) of subsection (15) of section 121.021, and subsections (1) and (2) and paragraph (a) of subsection (7) of s. 121.0515, F.S., shall take effect October 1, 1999.

HB 2043--Presentence Investigation Reports

by Bense (passed as CS/SB 1870 by Criminal Justice; Clary)

House Committee(s) of Reference: Governmental Operations; Crime & Punishment

This bill provides an exception to a public record exemption for certain information contained in a presentence investigation report (PSI) of a convicted criminal. It allows a state attorney to permit a victim of a crime, a victim's parent or guardian if a minor, or next of kin if a homicide, to review a copy of the PSI prior to sentencing upon request. It provides that confidential information shall be blackened out before such review, and that the victim shall maintain the confidentiality of the contents of the report.

The effective date of this bill is July 1, 1999.

HB 2055--One-Stop Permitting System

by Governmental Operations; Constantine and Others (passed as CS/CS/SB 662, 3rd Engrossed, by Fiscal Policy; Comprehensive Planning, Local and Military Affairs; Carlton)

House Committee(s) of Reference: Governmental Operations; General Governmental Appropriations

This bill requires the Department of Management Services (DMS) to create a One-Stop Permitting Internet System to provide individuals and businesses with a central source of development permit information. To accomplish this, the bill:

- Requires a permit that is filed using the One-Stop Permitting System to be approved or denied within a specified time.
- Provides for a temporary waiver of certain permit fees for applications filed using the One-Stop Permitting System.
- Creates the Quick Permitting County Designation Program within the DMS, and provides for grant moneys to be awarded to counties certified as Quick Permitting Counties.
- Provides a \$100,000 appropriation to fund the administrative costs to establish the system, and appropriates \$3,000,000 to offset reduced revenues resulting from implementing the One-Stop Permitting System.

The effective date of this bill is July 1, 1999.

HB 2219--DMS/Reorganization

by Sanderson (passed as CS/SB 2280, 2nd Engrossed, by Governmental Oversight and Productivity; Campbell)

House Committee(s) of Reference: Governmental Operations; General Government Appropriations

This bill reorganizes the Department of Management Services (DMS) transferring functions of the Division of State Group Insurance and the Division of Retirement to the Department of Management Services and abolishing the Florida State Group Insurance Council. The bill makes appropriate nomenclature changes throughout affected statutes.

This bill also provides miscellaneous statutory changes to enhance operations of the Division of State Group Insurance, including the following: provides that eligibility to participate in the state group insurance program may be authorized by rules adopted by the department and provides for optional membership in a health maintenance organization; provides that the department may require additional detailed information on each managed care organization's ability to meet service requirements; provides the department will make its selection on the basis of the plan that offers high value to enrollees, rather than the best overall benefit package for the affected service area; deletes specific authority for contracting with specialty psychiatric hospitals; provides the department shall develop its comprehensive insurance benefit package in furtherance of its duties in collective bargaining matters; provides that employer assumption of insurance premiums conditioned by a firefighter or law enforcement officer's incurring of a catastrophic injury is rephrased to bring s. 110.123, F.S., into compliance with amendments made to ss. 112.19 and 112.191, F.S., on the same subject; provides that any state agency that employs a full-time law enforcement officer,

correctional officer, correctional probation officer, or firefighter who is killed or suffers catastrophic injury in the line of duty as provided in ss. 112.19 and 112.191, F.S., shall pay the entire premium of the state group health insurance plan for the employee's surviving spouse until remarried, and for each dependent child of the employee subject to the limitations and conditions set forth in these two sections, as applicable; provides that state employees may participate in the state group health insurance plan at the time of receiving their state retirement benefits; and clarifies the department's role as the final authority in decisions concerning enrollment, the existence of coverage, or covered benefits. The bill revises the state group drug program as follows: deletes existing statutory language specifying employee drug co-payments and transfers that authority to the General Appropriations Act or relevant implementing legislation; provides continuation of the current dispensing fee for retail pharmacies; provides continuation of a mail-order prescription drug program for program participants; provides for a uniform reimbursement rate for participating retail pharmacies; provides that participating pharmacies must maintain an on-line computer system to verify participant eligibility and must agree to make their records available for utilization review actions undertaken by the program; provides responsibilities for establishing reimbursement schedules for prescription pharmaceuticals and for implementing cost saving measures; prohibits the Department of Management Services from implementing a prior authorization or a restricted formulary program that restricts a non-HMO enrollee's access to prescription drugs beyond provisions related specifically to generic equivalents for prescriptions and starter dose programs or the dispensing of long-term maintenance medications; and terminates the prior authorization program expanded pursuant to section (8) of the 1998-1999 General Appropriations Act. The bill also includes that effective July 1, 1999, any legislative member who terminates his or her elected service after July 1, 1999, after having vested in the state retirement system, may purchase coverage in the state group health insurance plan at the same premium cost as that for retirees and surviving spouses (this is full premium cost without any health insurance subsidy).

This bill also establishes conditions under which voice mail systems shall be utilized; repeals s. 20.37(3), F.S., related to the location of the headquarters of the Department of Veterans' Affairs; provides changes to the Florida Employee Long-Term-Care Plan Act as follows: provides an opportunity for public employees and their families to purchase long-term-care insurance by means of payroll deduction; provides upon the affirmative vote of the governing body of any county or municipality in this state the active and retired officers and employees of any such county or municipality and their spouses, children, stepchildren, parents, parents-in-law, and others designated may participate in the long-term-care program; provides that the Department of Management Services and the Department of Elderly Affairs shall review all self-insured and all fully-insured proposals submitted to it by qualified vendors who have submitted responses prior to February 23, 1999; upon review, the departments may award a contract to the vendor that the departments deem to represent the best value to public employees, family members of public employees, and retirees; prohibits any entity providing actuarial consulting services to the Department of Management Services or the Department of Elderly Affairs with regard to the long-term-care plan from providing or

contracting to provide the entity selected as the provider of long-term-care service offerings in this state with any services related to the Florida Employee Long-Term-Care Plan; increases the membership of the Long-Term-Care Board from seven to nine members and provides for appointments; provides that any member of the FRS who serves as the elected mayor of a consolidated local government, which government by its charter has chosen status as a municipality rather than a county government for purposes of the state retirement system, may elect membership in the Elected State and County Officers' Class; provides that any such mayor or former mayor shall be eligible for membership in this class for the term of office, provided the member or the local government employer pays the retirement contributions that would have been paid had actual participation commenced at that time, plus appropriate interest; provides that no retirement credit will be allowed for any service which is used to obtain a benefit under any local retirement system; and requires each department of the executive branch to survey each board, commission, and other such entity under its jurisdiction and recommend whether the entity should be abolished, continued, or revised and report this information in electronic format to the Department of Management Services which shall report the findings from all departments to the Governor and Legislature by December 1, 1999.

The effective date of this bill is July 1, 1999.

Committee on Governmental Rules & Regulations

1999 End-of-Session Summary

Bills that Passed Both Houses

CS/HB 107, 1st Engrossed--Administrative Procedure Act by Governmental Rules & Regulations; Pruitt; Wallace and Others (CS/CS/SB 206 by Fiscal Policy; Governmental Oversight and Productivity; Fiscal Policy; Laurent)

House Committee(s) of Reference: Water & Resource Management; Governmental Operations; Governmental Rules & Regulations

This bill reorganizes for clarity the definition of “agency” found in s. 120.52(1), F.S. (1998 Supplement), and includes in the definition regional water supply authorities for purposes of the Administrative Procedure Act. Entities described in ch. 298, F.S., relating to water control districts, are removed from that definition. Provides that district school boards do not have to adopt rules pursuant to the standard contained in s. 120.536(1) and s. 120.52(8), but must instead adopt rules pursuant to the general powers described in s. 230.22(2), F.S. (1998 Supplement).

The bill clarifies the rule-making standard adopted in the 1996 revisions to the Administrative Procedure Act. It provides that an agency may adopt only rules that implement or interpret the specific powers and duties granted by the enabling act. Moreover, an agency does not have authority to adopt a rule because it is within the agency’s class of powers and duties. Statutory language granting rule-making authority is to be construed to extend no further than implementing or interpreting the specific powers and duties conferred by the same statute. Agencies are again provided the opportunity to review existing rules to determine whether those rules have a valid statutory basis pursuant to the clarified standard. Those rules that are determined not to have adequate authority may be shielded from challenge as to validity and agencies may seek legislative ratification of those rules.

Other provisions provide that an agency may not adopt retroactive rules, including those intended to clarify existing law, unless expressly authorized by statute. When challenging a proposed rule, the petitioner has the burden of going forward in a challenge to a proposed rule. The agency then has the burden to prove by a preponderance of the evidence that the proposed rule is not an invalid exercise of delegated legislative authority. Where the agency is to reject or modify a recommended conclusion of law or interpretation of administrative rule, it is to state its reasons for doing so with particularity and must also make a finding that its substituted conclusion of law is as or more reasonable than that for which it was substituted.

The bill is effective upon becoming law.

HOUSE OF REPRESENTATIVES
RESOURCE AND LAND MANAGEMENT COUNCIL
1999 SUMMARY OF PASSED LEGISLATION



COMMITTEE ON AGRICULTURE

Representative Adam Putnam, Chair
Representative Irlo "Bud" Bronson, Vice-Chair

COMMITTEE ON ENVIRONMENTAL PROTECTION

Representative Paula Dockery, Chair
Representative Chris Hart, Vice-Chair

COMMITTEE ON WATER AND RESOURCE MANAGEMENT

Representative JD Alexander, Chair
Representative Janegale M. Boyd, Vice-Chair

Representative D. Lee Constantine, Council Chair
May 1999

RESOURCE AND LAND MANAGEMENT COUNCIL

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Committee on Agriculture

1999 End-of-Session Summary

Bills that Passed Both Houses

CS/HB 1143--Aquaculture

by Agriculture; Bronson & Others

(CS/SB 1118 by Natural Resources; Laurent & Others)

House Committee(s) of Reference: Agriculture; Water and Resource Management; General Government Appropriations

This bill requires the Fish and Wildlife Conservation Commission (FWCC) to adopt rules by March 1, 2000, to regulate the sale of farmed red drum and spotted sea trout. These rules must provide for the protection of the wild resource without restricting a certified aquaculture producer from being able to sell farmed fish. The FWCC is also required to develop procedures by July 1, 2000, to allow persons possessing a valid aquaculture certificate to sell and transport live snook produced in private ponds or private hatcheries as brood stock to private ponds or for aquarium display.

The bill allows reasonable quantities of brood stock to be taken for aquacultural purposes. The bill includes a provision prohibiting interference with live bait traps or cages of another person, firm, corporation, or association. Violation of this provision constitutes a misdemeanor of the first degree. The definition of an aquaculture producer is revised to reflect certification requirements and the term "marine product facility" is changed to "marine aquaculture facility."

The bill provides the purpose of and sets requirements for the Sturgeon Production Working Group. The bill removes the requirement for tagging cultured game fish. The bill allows certified aquaculture producers to export water hyacinths to countries other than the United States.

A Cultured Shellfish Theft Reward Program is established, to be administered by the Department of Agriculture and Consumer Services, for the purpose of granting rewards to persons who provide information leading to the arrest and conviction of individuals illegally possessing, harvesting, or attempting to harvest cultured shellfish.

And lastly, because of changes to s. 370.027, F.S., revising the Marine Fisheries Commission's rulemaking authority over snook, red drum, and spotted sea trout, and a question of whether those changes may be inconsistent with the intent of Revision #5 to the Florida Constitution creating the FWCC, a severability clause is included in this legislation to allow passage of the various provisions of this legislation independently of one another.

CS/1ST ENG/HB 1535--Wildfires

by General Government Appropriations; Agriculture; Putnam & Others

(CS/SB 780 by Agriculture and Consumer Services)

House Committee(s) of Reference: Judiciary; General Government Appropriations

This bill amends portions of Chapter 590, F.S., to clarify the authority of the Division of Forestry, within the Department of Agriculture and Consumer Services, and charging it with primary responsibility for providing prevention, detection, and suppression of wildfires wherever they may occur, on public or private land. This is not an increase in duties for the division, rather a clarification. The bill also includes the substance of CS/HB 569, which relates to the management of conservation and recreation lands.

Under this bill, employees and firefighting crews under the division's control and direction may enter upon any lands for the purpose of preventing and suppressing wildfires and investigating smoke complaints or open burning not in compliance with an authorization. The division is authorized to reimburse public and private entities which the division engages to assist in wildfire suppression, and the bill directs the division to undertake privatization alternatives for fire prevention activities. The bill also creates the Florida Center for Wildfire and Forest Resources Management Training, which will be located in existing infrastructure at the Withlacoochee Forest Center.

The bill authorizes the Commissioner of Agriculture to declare when severe drought emergencies exist (formerly the Governor had to declare such situations). It prohibits any person from setting fires within the designated area of a severe drought emergency, unless a written permit is obtained from the division. If the severe drought emergency continues until wild lands become so dry that an extraordinary fire hazard exists, the Governor, under the advisement of the Commissioner of Agriculture, may declare the extraordinary fire hazard's existence and describe the boundaries in a proclamation. In areas determined to be within the boundaries of extraordinary fire hazards, activities, other than specific work-related activities by the landowner, are restricted.

The bill authorizes the division to maximize the opportunities for prescribed burning conducted during its daytime and nighttime authorization process. A property owner or his or her agent who is conducting a certified prescribed burn will not be held liable for damage or injury caused by the fire or resulting smoke unless "gross" negligence is proven. The "Hawkins Bill", also commonly referred to as the "Hawkins Act," currently allows the division to prescribe burn any area of wild land within the state reasonably determined to be in danger of wildfire. HB 1535 clarifies procedures for landowners objecting to the prescribed burning of his or her property.

If a person permits any authorized fire to escape the boundaries or time limit of a burn authorization, cost and expenses (or \$150, whichever is greater) incurred by the division shall be paid within thirty days and costs incurred by an agency acting at the division's direction are recoverable by that agency.

The bill specifies that any equipment, including equipment for fire control uses, purchased with Conservation and Recreation Lands (CARL) funds may be used for any CARL lands managed by a state agency. The bill authorizes owners of nonconforming structures which were burned during the June and July, 1998 wildfires to repair or rebuild in like-kind, unless prohibited by Federal law or regulation.

The bill pulls together all open burning laws that the division is responsible for and puts them all in one section so citizens can go and look in one area to obtain answers. The funding necessary to implement this legislation is \$140,000 in FY 1999-2000, \$805,998 in FY 2000-2001, and \$653,446 in FY 2001-2002 for the Florida Center for Wildfire and Forest Resources Management Training. Anticipated recurring revenues are \$284,440 for FY 2000-2001, and \$298,662 for FY 2001-2002. The bill appropriates \$140,000 to implement the provisions of the bill.

The effective date of this bill is upon becoming law.

2ND ENG/HB 1639--Ad Valorem Tax Assessment/Irrigation by Alexander & Others (SB 1582 by Laurent)

House Committee(s) of Reference: Agriculture; Finance and Taxation; General Government Appropriations

Section 193.461, F.S., provides requirements and directions to property appraisers for the assessment of agricultural lands. There are listed criteria for assessment, one of which is the income methodology approach which uses actual agricultural production on a parcel of property as a measure of the value of that particular property. Under this approach, productive agricultural property is assessed in a manner that reflects the rise and fall in the agriculture business by using a five-year moving average to establish the property's value.

For purposes of using the income methodology to assess agricultural properties, the bill provides irrigation systems physically attached to land used for agricultural purposes shall be considered a part of the average yields per acre and shall have no separately assessable contributory value.

The effective date of this bill is January 1, 2000.

**CS/2ND ENG/HB 1855--Agriculture and Consumer Services
Department
by General Government Appropriations; Agriculture; Putnam &
Others
(CS/1ST ENG/SB 2066 by Agriculture and Consumer Services;
Thomas)**

House Committee(s) of Reference: Business Regulation and Consumer Affairs;
Finance and Taxation; General Government Appropriations

Many of the changes in the bill are of a technical nature. The definitions of "farm product" and "agricultural emergency" are clarified to more accurately state the original intent. A reference to a quorum for the Florida Agriculture Center and Horse Park Authority is deleted because it is duplicative in nature. The acreage allowance that the horse park-agricultural center may use is increased from 250 to 500 acres. References to the Consumer Products Testing Laboratory, which was dissolved last year, are removed. A name change, brought about by the United States Department of Agriculture (USDA) reorganization, is authorized. In regard to Withlacoochee and Goethe State Forests and gross receipts from timber harvest, the bill removes individual county names and inserts "each county in which a portion of the respective forest is located" to prevent any one county from losing revenue as the forests are expanded. The bill clarifies the definition of a legal fence and procedures for handling livestock at large are revised. The bill clarifies that unless a mortgage includes a promissory clause, it is not evidence of indebtedness.

More specifically, the bill clarifies information required on an antifreeze label, establishes product liability, and redefines the penalties for violating the antifreeze act.

A Pest Exclusion Advisory Committee is created to look at plant and animal pest infestations, both present and future, and offer solutions and recommendations, in report form, to the Commissioner of Agriculture, the Governor, the Speaker of the House of Representatives, and the President of the Senate by January 1, 2001.

The Department of Agriculture and Consumer Services (Department) is permitted to create a buffer zone to slow the spread of citrus canker from infected areas. A compensation program for trees removed from the buffer zone will be developed, subject to annual legislative appropriation.

The bill restricts the proximity and dates of operation of temporary amusement rides to public fairs and expositions, except with the written consent of the affected fair association. The bill requires public fairs and expositions to forward a copy of the application for a permit to fair associations within 50 miles of the site of a proposed fair when an application is presented to the department. The Department is given

authority to determine which, if any, fairs or expositions may compete with one another. The bill declares public fairs and expositions exempt from special assessments.

The bill allows owners of amusement rides to submit copies of current manufacturer's operating instructions to the Department only upon the Department's request but at no cost to the Department. It also prohibits bungy catapulting or reverse bungy jumping. The length of time between the execution of the Affidavit of Nondestructive Testing (NDT) and the time the inspection is done and the permit is issued is reduced to 60 days. If general revenue is insufficient to cover the costs associated with the Bureau of Fair Rides Inspection, the industry shall pay for the remaining cost of the program. And lastly, amusement ride owners are required to post signs at patron entrances to advise or warn of age, size, and health restrictions, weight limits or other special considerations recommended by the manufacturer.

The bill provides a penalty for any person who intentionally trips, fells, ropes, or lassoes the legs of a horse for the purpose of wagering for entertainment or sport. The legislation provides penalties for violation of "Fresh from Florida" logo regulations.

The effective date of this bill is July 1, 1999.

HB 1921--Corporate Income Tax

by Spratt (1ST ENG/SB 676 by Horne)

(Passed as part of CS/CS/1ST ENG/SB 888 by Commerce and Economic Opportunities; Fiscal Resource; Horne)

House Committee(s) of Reference: Agriculture; Finance and Taxation; General Government Appropriations

This bill amends Chapter 220, F.S., to allow citrus processing companies, as defined in the bill, to elect to use a single factor sales formula to calculate their Florida apportionment factor for corporate income tax. This allows the processing companies to eliminate payroll and property factors from their apportionment formula. Proponents of the measure believe it will enhance the business climate in Florida by allowing companies to adjust their corporate income tax formula.

The effective date of this bill is upon becoming law.

Committee on Environmental Protection

1999 End-of-Session Summary

Bills that Passed Both Houses

1ST ENG/HB 269--Lead-acid Battery Fee

by Albright

(SB 1122 by Silver)

House Committee(s) of Reference: Environmental Protection; Finance and Taxation; General Government Appropriations

The bill amends ss. 403.717 and 403.7185, F.S., to specify that the \$1.50 lead-acid battery fee currently assessed on every retail sale of these batteries shall only be imposed on the sale of new or remanufactured batteries and may only be imposed one time on any battery. An amendment adopted by the Finance and Taxation Committee appropriates \$600,00 in fiscal year 1999-2000 and \$800,000 annually thereafter from the General Revenue Fund to be transferred to the Water Quality Assurance Trust Fund to offset the revenue reduction resulting from the bill.

The effective date of the bill is October 1, 1999.

1ST ENG/HB 329--Miami-Dade County Lake Belt Area

by Villalobos & Others

(CS/CS/SB 2238 by Fiscal Resource; Comprehensive Planning, Local and Military Affairs; Diaz-Balart & Others)

House Committee(s) of Reference: Environmental Protection; General Government Appropriations

This bill provides a legislative finding that the impact of mining within the rock mining areas of the Miami-Dade County Lake Belt Area (Lake Belt Area) can best be offset by the implementation of a comprehensive mitigation plan. The Lake Belt Mitigation Plan, as set forth in s. 373.4149, F.S., imposes a five cent mitigation fee on each ton of limerock or sand sold from within the Lake Belt Area. As of October 1, 1999, this fee will apply to limerock or sand in raw, processed, and manufactured form, including: sized aggregate, asphalt, cement, concrete, and other limerock and concrete products. Proceeds of the fee, less administrative costs, are to be used exclusively for the purpose of conducting mitigation activities that offset the loss of the value and functions of wetlands as a result of mining in the Lake Belt Area. Payment of the mitigation fee will satisfy any mitigation requirements imposed by ss. 373.403-373.439, F.S., or by any applicable county ordinance.

This bill also redefines the Lake Belt Area by deleting areas that are currently within its boundaries. It also provides that local land use jurisdiction shall not be preempted for areas within the Lake Belt Area, provided the exercise of local land use jurisdiction strongly considers limestone mining activities and related operations within areas designated for rock mining by the Lake Belt Plan.

This bill provides additional requirements for the Phase II Lake Belt Plan. In developing the plan, the Lake Belt Committee must consider the feasibility of a common mitigation plan for nonrock mining uses, including a mitigation fee. The committee must also analyze the hydrological impacts resulting from future mining anticipated in the Lake Belt Plan and recommend any appropriate, necessary mitigation measures to be included in the Lake Belt Mitigation Plan.

The effective date of this bill is upon becoming law.

CS/HB 569--Conservation & Recreation Lands by General Government Appropriations; Putnam

(Passed as part of CS/CS/1ST ENG/SB 908 by Fiscal Policy; Natural Resources; Latvala & Others)

House Committee(s) of Reference: Environmental Protection; Water and Resource Management; General Government Appropriations

This bill provides that a percentage of the funds deposited into the Preservation 2000 Trust Fund are available for the management, maintenance and capital improvements to lands acquired under Preservation 2000 or previous land acquisition programs. The bill also provides that any equipment purchased with monies from the Preservation 2000 Trust Fund may be used on any conservation and recreation lands managed by a state agency.

The effective date of this bill is upon becoming law.

1ST ENG/HB 1515--Water Pollution Operation Permits by Constantine; Merchant

(CS/SB 1180 by Natural Resources; Bronson & Others) (**Chapter 99-11, L.O.F.**)

House Committee(s) of Reference: Environmental Protection

The act makes two changes in the process for issuing water pollution operation permits as required under s. 403.088, F.S. First, it makes discretionary the requirement that a

permit specifically incorporate an accompanying administrative order that contains a compliance schedule. Second, this bill provides for administrative procedures in granting a contested motion for interim construction, operation, or maintenance of a facility being constructed pursuant to the Everglades Forever Act (s. 373.4592, F.S.).

The effective date of this bill is upon becoming law.

**CS/HB 1699--SFWMD/Central & Southern Project
by General Government Appropriations; Putnam & Others
(Passed as CS/CS/1ST ENG/SB 1672 by Fiscal Policy; Natural
Resources & Laurent) (Chapter 99-143, L.O.F.)**

House Committee(s) of Reference: Environmental Protection; General Government Appropriations

This bill authorizes the South Florida Water Management District (District) to participate as local sponsor for the Comprehensive Review, or Restudy, of the Central and Southern Florida (C&SF) Project. Legislative intent is provided that the Restudy project components be implemented in a manner consistent with Chapter 373, F.S. The District is specifically authorized to exercise eminent domain authority in acquiring lands necessary for the Kissimmee River Restoration Project, the Ten Mile Creek Project, the Water Preserve Areas, and the C-111 Project; in the absence of willing sellers, such lands must be acquired using state condemnation law. The bill also provides specific requirements for the design and development of project components resulting from the Restudy. The District and the Department of Environmental Protection (Department) are directed to expeditiously pursue currently authorized projects and to coordinate project components with previously authorized projects. The Department is required to approve, or approve with amendments, all project components, with such approval based upon a determination that the District has complied with the specified requirements for the design and development of project components. It also requires that requests for any state funding needed for a project component be submitted to the Department for inclusion in the Department's budget request.

The effective date of this bill is upon becoming law.

**1ST ENG/HB 1765--Greenways & Trails
by Dockery; Constantine & Others
(Passed as part of CS/CS/1ST ENG/SB 908 by Fiscal Policy; Natural
Resources; Latvala & Others)**

House Committee(s) References: Environmental Protection; General Government Appropriations

This bill provides that the Florida Greenways Coordinating Council and the Florida Recreational Trails Council are to be abolished and, in their place, a single body is created--the Florida Greenways and Trails Council. This council is to advise the Department of Environmental Protection in the execution of its powers and duties under Chapter 260, F.S. Provisions of this bill provide for the Florida Greenways and Trails Council's membership, duties and powers. In addition, this bill grants the rulemaking authority needed in order to implement Chapter 260, F.S.

The effective date of this bill is upon becoming law.

**1ST ENG/3RD ENG/HB 1849--Lead-acid Battery Fees
by Wallace & Others**

(Passed as CS/1ST ENG/SB 1434 by Natural Resources; Hargrett)

House Committee(s) of Reference: Environmental Protection; Finance and Taxation; General Governmental Appropriations

The bill authorizes the Department of Environmental Protection to appropriate up to \$400,000 from the Solid Waste Management Trust Fund, if available, for fiscal year 1999-2000 and to seek continued funding on an annual basis through fiscal year 2004-2005. The purpose of the funding is to create a grant program for Florida-based businesses that recycle lead-acid batteries and other materials containing lead, such as televisions and certain computer products. The bill also directs the department to work with the Department of Management Services to implement a pilot program to collect products containing lead from state agencies. A final provision of the bill increases the number of tires from 1,000 to 1,500 which may be held at a waste tire collection center or waste tire site provided these sites had certain permits.

The effective date of this bill is July 1, 1999.

**CS/CS/1ST ENG/HB 2021--State Land Acquisition & Management;
by General Government Appropriations; Water and Resource
Management; Environmental Protection; Dockery; Constantine;
Alexander & Others**

(Passed as CS/CS/1ST ENG/SB 908 by Fiscal Policy; Natural Resources; Latvala & Others)

House Committee(s) of Reference: Water and Resource Management; General Government Appropriations

This bill creates the *Florida Forever* program which authorizes the issuance of bonds in an amount not to exceed \$3 billion for acquisitions of land and water areas. This revenue is to be used for the purposes of restoration, conservation, recreation, water resource development, historical preservation and capital improvements to such lands and water areas. This program is intended to accomplish environmental restoration, enhance public access and recreational enjoyment, promote long-term management goals, and facilitate water resource development.

The bond proceeds are to be distributed as follows: 35 percent for the acquisition of lands and capital projects (capital projects may not exceed 10 percent of the funds allocated pursuant to this section); 35 percent for acquisition of lands and capital project expenditures necessary to implement the water management districts priority lists (of this amount, a minimum of fifty percent shall be used for the acquisition of lands); 20 percent to Florida Communities Trust Program; 1.5 percent for purchases of inholdings and additions to state parks; 1.5 percent to fund state forest inholdings and additions and implement reforestation plans or management practices; 1.5 percent to the Fish and Wildlife Conservation Commission for inholdings and additions; and 1.5 percent to the Florida Greenways and Trails Programs.

Effective July 1, 2001, provisions of this bill would distribute documentary stamp tax revenues in the following manner: both the Conservation and Recreation Lands and Water Management Lands Trust Funds are reduced from 5.84% to 4.20%; 2.28% shall be paid into the Invasive Plant Control Trust Fund; 0.05% of the remaining taxes collected shall be paid into the State Game Trust Fund for lake restoration; and 0.05% shall be paid into the State Treasury and divided equally to the credit of the Department of Environmental Protection and the Department of Agriculture and Consumer Services for water quality research.

This bill also modifies current statutory provisions relating to surplus lands and payment in lieu of taxes. Surplus language is amended to conform with the Revision #5 to the Florida Constitution which directed that lands purchased for conservation purposes may only be surplus upon a two-thirds vote of the entity holding title. In addition, a process for requesting and undertaking the surplus of lands was provided. The payment in lieu of taxes statutes were simplified. Current millage and population requirements were replaced with the requirement that a county have a population of less than 150,000 and the total acquisitions under Preservation 2000 (P2000) and Forever Florida programs exceed 0.01% of total ad valorem tax collections.

A new provision concerning the alternative uses of state-owned lands was created. For uses such as natural gas or petroleum pipelines, sustainable forestry or agriculture, and linear facilities, a set of criteria is established. The entity holding title is to review the criteria and determine whether or not the proposed use meets such criteria and therefore shall be allowed.

Certain provisions of this bill are substantially similar to CS/HB 569, which died on the House Calendar. These provisions set forth the purposes of the Conservation and Recreational Lands Trust Fund (CARL), how the fund is to be credited and the reasons for its distribution. The current funds in the CARL Trust Fund and the P2000 Trust Fund are to be used for land management on other state lands. These lands are required to be managed by a state agency for conservation and recreation purposes.

Other provisions of this bill are substantially similar to 1ST ENG/HB 1765, which died in the Senate Committee on Natural Resources. This bill provides that the Florida Greenways Coordinating Council and the Florida Recreational Trails Council are to be abolished and, in their place, a single body is created--the Florida Greenways and Trails Council. This council is to advise the Department of Environmental Protection in the execution of its powers and duties under Chapter 260, F.S. Provisions of this bill provide for the Florida Greenways and Trails Council's membership, duties and powers. In addition, this bill grants the rulemaking authority needed in order to implement Chapter 260, F.S.

This bill also creates the Florida Forever Advisory Council, and the Acquisition and Restoration Council (ARC) and establishes their memberships, duties and compensation.

Effective July 1, 1999, the duties, powers and all other activities conducted by the Green Swamp Land Authority are transferred to the Department of Environmental Protection.

This bill sets forth numerous other substantive provisions, including those relating to: the procedures and guidance to be used when purchasing state owned lands for preservation, conservation and recreational purposes; requirements for the water management districts to use in order to evaluate and recommend projects; usage of funds within the Water Management Lands Trust Fund; lands managed for multiple use; and financial assistance programs to local governments.

This bill also amends current provisions regulating rigid coastal armoring structures and states that permits for present installations may be issued where the installation is between and adjoins rigid coastal armoring structures at both ends, follows a continuous and uniform armoring structure construction line and is no more than 250 feet in length.

Furthermore, this bill delegates rulemaking authority to the Department of Environmental Protection and the water management districts for implementation of this Act.

The effective date of this bill is upon becoming law.

**HB 2057--Coastal Zone Protection Act
by Argenziano**
(Passed as SB 934 by Brown-Waite)

House Committee(s) of Reference: Environmental Protection; Community Affairs;
General Government Appropriations

The bill amends s. 161.54, F.S., to modify the definition of “substantial improvement” by removing the 5-year cumulative total provision of the definition. If repairs or improvements to a structure within the coastal building zone meet the definition of “substantial improvement,” the structure must comply with the minimum standards for construction within the coastal building zone. The bill provides that a “substantial improvement” occurs only if the cost of a single improvement or repair equals or exceeds 50 percent of the structure’s market value.

The effective date of this bill is upon becoming law.

**HB 2151--Petroleum Contamination Site Rehabilitation
by Environmental Protection; Dockery**
(CS/SB 2536 by Natural Resources; Diaz-Balart)

House Committee(s) of Reference: Governmental Rules and Regulations; General
Government Appropriations

The bill provides up to \$5 million from the Inland Protection Trust Fund for source removal activities in advance of the priority ranking system. However, a prioritization schedule that is consistent with statutory requirements must be established for these activities.

This bill also requires, under the Petroleum Cleanup Participation Program, that the Department of Environmental Protection (Department) and the person responsible for site rehabilitation must complete their cost-sharing agreement negotiations within 120 days of commencement. If the parties are unable to complete negotiations, then the Department is to terminate negotiations, deem the site ineligible under this program, and revoke all liability protections. In addition, this bill eliminates the provision that any person who knowingly acquires title to contaminated property is not eligible for funding under this program.

The bill also directs the Department to select five sites for innovative technology pilot programs. The Department is to select innovative products and processes, based upon competitive bidding procedures as set forth in statute, to use on the pilot projects.

This bill recognizes that it is appropriate for persons assuming responsibility for clean up of new discharges which occur after December 31, 1998 (at sites with existing contamination which was already determined to be eligible for state funded clean up) to share in the costs. Therefore, this bill authorizes the Department to enter into site rehabilitation agreements with such persons assuming responsibility for new discharges. The agreements are to include: allocation of the financial responsibilities of both parties; establish the method which will guarantee the applicant's commitment to pay; establish priority of the clean up; and pay any applicable deductibles, copayments or other program eligibility requirements. The application for a site rehabilitation agreement is to be submitted no later than 120 days from discovery of the new discharge and must include an assessment report and a certification that the applicant has the authority to enter into the agreement. This bill also provides for the requirements of this agreement and exclusions thereof. The parties must complete their negotiations within 90 days of commencement. If the terms of the agreement are not fulfilled by the applicant, then the applicant forfeits the right to funding and the Department or local government may compel enforcement of the clean up.

This bill also continues the Preapproved Advanced Cleanup Program, which was scheduled for repeal this year.

The effective date of certain provisions of this bill is retroactive to January 1, 1999, except as provided in s. 376.30714(11), F.S. The effective date of the remaining portions of this bill is upon becoming law.

Committee on Water and Resource Management

1999 End-of-Session Summary

Bills that Passed Both Houses

CS/1ST ENG/HB 107--Administrative Procedure Act by Governmental Rules and Regulations; Pruitt; Wallace & Others (CS/CS/SB 206 by Governmental Operations; Fiscal Policy; Laurent)

House Committee(s) of Reference: Water and Resource Management;
Governmental Operations; Governmental Rules and Regulations

This bill reorganizes for clarity the definition of “agency” found in s. 120.52(1), F.S., and includes in the definition regional water supply authorities for purposes of the Administrative Procedure Act. Entities described in Chapter 298, F.S., relating to water control districts, are removed from that definition. This bill provides that district school boards do not have to adopt rules pursuant to the standard contained in ss. 120.536(1) and 120.52(8), F.S., but must instead adopt rules pursuant to the general powers described in s. 230.22(2), F.S.

The bill also clarifies the rulemaking standard adopted in the 1996 revisions to the Administrative Procedure Act. It provides that an agency may adopt only rules that implement or interpret the specific powers and duties granted by the enabling act. Moreover, an agency does not have authority to adopt a rule because it is within the agency’s class of powers and duties. Statutory language granting rulemaking authority is to be construed to extend no further than implementing or interpreting the specific powers and duties conferred by the same statute. Agencies are again provided the opportunity to review existing rules to determine whether those rules have a valid statutory basis pursuant to the clarified standard. Those rules that are determined not to have adequate authority may be shielded from challenge as to validity and agencies may seek legislative ratification of those rules.

Other provisions provide that an agency may not adopt retroactive rules, including those intended to clarify existing law, unless expressly authorized by statute. When challenging a proposed rule, the petitioner has the burden of going forward in a challenge to a proposed rule. The agency then has the burden to prove by a preponderance of the evidence that the proposed rule is not an invalid exercise of delegated legislative authority.

Where the agency is to reject or modify a recommended conclusion of law or interpretation of administrative rule, it is to state its reasons for doing so with particularity and must also make a finding that its substituted conclusion of law is as or more reasonable than that for which it was substituted.

The effective date of this bill is upon becoming law.

1ST ENG/HB 467--Hunting & Fishing License Fees by Sembler

(Passed as part of CS/3RD ENG/HB 2067 by General Government Appropriations; Water and Resource Management; Alexander)

House Committee(s) of Reference: Water and Resource Management; Community Affairs; Finance and Taxation; General Government Appropriations

This bill repeals the \$5, 3-day nonresident freshwater fishing license currently authorized in s. 372.57(2)(b)2., F.S. It also calls for a review of fees for licenses and permits established in Chapter 372, F.S., including exemptions for those fees. The Legislature is required to conduct this review every five years, beginning with the year 2000 Regular Session.

The effective date of this bill is July 1, 1999.

HB 697--Watersports/Parasails by Edwards

(Passed as CS/SB 728 by Natural Resources; Sullivan)

House Committee(s) of Reference: Water and Resource Management; Governmental Rules and Regulations

This bill amends s. 327.37, F.S., to provide that operators of vessels towing a person attached to a parasail or similar device must have another person in the vessel, in addition to the operator, to observe the progress of the person being towed. The bill clarifies that a wide-angle rear view mirror is not acceptable for purposes of observation. The bill further prohibits persons from parasailing at any time between the hours of one-half hour after sunset to one-half hour before sunrise.

In addition, the bill provides that a person may not engage in parasailing or any similar activity without wearing a personal flotation device approved by the United States Coast Guard. The bill also provides exemptions from the requirements of the bill for certain persons. The operation or manipulation of a vessel, tow rope, or other device by which the direction and location of a parasail may be affected or controlled in such a way as to cause the parasail to collide or strike against any vessel, bridge, wharf, pier, dock, buoy, platform, or other object is prohibited.

The bill prohibits persons from operating any vessel towing a parasail, or from engaging in parasailing, within 100 feet of the marked channel of the Florida Intracoastal Waterway. Also, the bill provides noncriminal penalty provisions for

persons violating parasailing regulations. Multiple violations, or failure to pay penalties assessed for noncriminal violations, can result in misdemeanor charges.

The effective date of this bill is July 1, 1999.

**CS/HB 721--Sewage Treatment Facility Discharges
by Environmental Protection; Fiorentino & Others**
(Passed as CS/1ST ENG/SB 1424 by Natural Resources; Latvala)

House Committee(s) of Reference: Water and Resource Management;
Environmental Protection; Community Affairs

This bill prohibits new or expanded discharges to waters within Pasco County and requires elimination of existing discharges to waters within Pasco County by July 1, 2004. Exceptions to the provisions are provided if: 1) there is no other practicable alternative and the discharge will receive advanced waste treatment or a higher level of treatment and will not result in a violation of water quality standards; or 2) the discharge is a limited wet weather discharge serving as a backup to a reuse system and will not result in a violation of water quality standards.

The effective date of this bill is upon becoming law.

**HB 801--Septic Tanks/Suitability of Soils
by Putnam**

(Passed as part of CS/2ND ENG/SB 2380 by Comprehensive Planning,
Local and Military Affairs; Rossin)

House Committee(s) of Reference: Water and Resource Management; Community
Affairs

This bill states that the Legislature recognizes the Department of Community Affairs' (DCA) responsibility to review and evaluate comprehensive plan amendments proposing the location, installation or use of onsite sewage treatment and disposal systems (septic tanks). The bill further states that, except in areas of critical state concern, when reviewing comprehensive plan amendments, DCA shall not require standards, conditions or land-use restrictions that are more stringent than those specified in applicable statutes or rules adopted by the Department of Health, the Department of Environmental Protection, or any other relevant agency.

The effective date of this bill is upon becoming law.

HB 1087--Broward County/Old Plantation Water Control District by Wasserman-Schultz

(Passed as SB 2688 by Campbell)

House Committee(s) of Reference: Water and Resource Management; Community Affairs; Governmental Operations; Finance and Taxation

The bill codifies all prior special acts relating to the Old Plantation Water Control District in Broward County into a single act, and provides for minimum charter requirements. All prior special acts are repealed and no changes are made to substantive law.

The effective date of this bill is upon becoming law.

HB 1091--Broward County/ Hillsboro Inlet District by Wasserman-Schultz

(Passed as CS/SB 2672 by Campbell)

House Committee(s) of Reference: Water and Resource Management; Community Affairs; Governmental Operations

The bill codifies all prior special acts relating to the Hillsboro Inlet District in Broward County into a single act. The Hillsboro Inlet District bypasses sand, distributes sand on the beaches, and maintains the depth of the Hillsboro Inlet to allow the free flow of water for boat traffic. The District also serves a significant drainage function. In addition, the bill provides for minimum charter requirements, repeals prior special acts, and clarifies beach erosion provisions.

The bill does not make any substantive changes to current law.

The effective date of this bill is upon becoming law.

HB 1133--Water Management District Meeting Notices by A. Greene

(Passed as part of CS/CS/1ST ENG/SB 908 by Fiscal Policy; Natural Resources; Latvala & Others)

House Committee(s) of Reference: Water and Resource Management; Community Affairs; Governmental Operations

The bill gives water management districts (WMDs) the option of advertising in area newspapers, rather than in the Florida Administrative Weekly, staff meetings to evaluate and rank bids for goods or services. Being able to use newspapers as the

advertising medium is expected to speed up the WMDs' contracting process. The bill has an indeterminate fiscal impact.

The effective date of this bill is July 1, 1999.

**CS/HB 1829--Harmful-Algal-Bloom Task Force
by Water and Resource Management; Bradley & Others
(Passed as CS/2ND ENG/SB 2038 by Natural Resources; Carlton)**

House Committee(s) of Reference: Water and Resource Management; Governmental Operations; General Government Appropriations

This bill establishes a Harmful-Algal-Bloom Task Force to determine research and monitoring priorities and control and mitigation strategies for harmful algal blooms and make recommendations to the Florida Marine Research Institute (FRMI). The FRMI shall appoint the task force members from certain specified occupations and must include citizen group representatives and members of government.

The bill requires the FMRI to implement a program designed to increase the knowledge of red tide, and to provide funding and technical assistance to government agencies, research universities, coastal local governments, and organizations with scientific and technical expertise for research purposes. Criteria are provided for the procurement of contractual services under the program. The sum of \$3,000,000 is appropriated from the Coastal Protection Trust Fund to the FMRI. Of this amount, \$1,000,000 is to continue 10 specific contracts for promoting state, federal and private partnerships relating to harmful algal blooms, \$1,000,000 is for the Mote Marine Laboratory and \$1,000,000 is for the FMRI for research on red tide.

The effective date of this bill is July 1, 1999.

**HB 2023--Brevard County/Harvesting Clams
by Goode
(Passed as SB 2576 by Bronson)**

House Committee(s) of Reference: Water and Resource Management; Community Affairs; General Government Appropriations

The bill establishes a priority process by which the Department of Environmental Protection (DEP) will issue new Brevard County clamming licenses once the total number currently issued falls below 500. The current number of licenses is expected to fall below that threshold in the next 12 months. (NOTE: The newly created Fish and Wildlife Conservation Commission will take over this responsibility from DEP as of July 1, 1999.)

The bill also extends the clamming license program's existence another two years, until July 1, 2003.

The effective date of this bill is upon becoming law.

**CS/3RD ENG/HB 2067--Water Resource Management
by General Government Appropriations; Water and Resource
Management, Alexander & Others**

(Provisions of this bill are also included in CS/HB 2069, CS/2ND
ENG/SB 1250, and CS/1ST ENG/SB 2282)

House Committee(s) of Reference: General Government Appropriations

Within the Northwest Florida Water Management District (NFWFMD), wetlands activities are regulated under a different program than the environmental resource permitting (ERP) program used in the rest of the state. CS/HB 2067 would allow this interim wetlands permitting program to continue another four years, to July 1, 2003. Also, certain wetlands jurisdiction declarations that DEP has given to entities in anticipation of development remain valid until January 1, 2002.

The bill directs the Department of Environmental Protection (DEP) and the NFWFMD to develop a plan by which the permitting for activities proposed in surface waters and wetlands shall fully comply with the provisions of part IV, Chapter 373, F.S., by July 1, 2003. The plan would address such issues as the division of wetlands permitting responsibilities between DEP and the NFWFMD; the ability of the NFWFMD to implement federal permitting programs related to activities in surface waters and wetlands; and the Chapter 70, F.S. (Bert Harris, Jr. Private Property Rights Act) implications of implementing an ERP program within the district. DEP and the NFWFMD must submit a joint interim report on their progress in developing the plan to the Governor and the Legislature on March 1, 2001, and a final report on March 1, 2003.

Additionally, the bill includes the text of CS/1ST ENG/SB 2282, the Florida Watershed Restoration Act, which outlines a process for restoring Florida's impaired waterbodies through the establishment of "total maximum daily loads" (see discussion of CS/HB 2069); a guarantee that once local governments begin collecting payment-in-lieu of taxes on lands acquired through state conservation programs, they are entitled to 10 full payments; forgiveness of a \$3.2 million loan from DEP to one of its trust funds; a provision allowing prevailing parties in actions related to Chapter 373, F.S., to recover cost and attorney's fees; and the text of 1ST ENG/HB 467, which repeals the 3-day, \$5 non-resident freshwater fishing license and directs the Legislature to review the various hunting, freshwater fishing and wildlife management licenses and permits issued by the Fish and Wildlife Conservation Commission (currently known as the Game and Fresh Water Fish Commission).

The effective date of this bill is July 1, 1999.

**CS/HB 2069--Florida Watershed Restoration Act
by Governmental Rules and Regulations; Water and Resource
Management; Alexander & Others**

(Passed as CS/1ST ENG/SB 2282 by Natural Resources; Laurent)

House Committee(s) of Reference: Governmental Rules and Regulations; General Government Appropriations

This bill outlines a process for restoring Florida's waters through the establishment of "total maximum daily loads" (TMDLs) for pollutants of impaired water bodies as required by the federal Clean Water Act. Specifically, the bill addresses development of the s. 303(d) list and TMDL assessment, calculation, allocation and implementation. The bill calls for the TMDL process to be integrated with existing state, federal and local protection and restoration programs, and for coordination with state agencies and affected parties.

The implementation of the bill over the next decade will have a substantial fiscal impact that cannot be accurately determined at this time. This bill also passed as a provision of CS/HB 2067.

The effective date of this bill is upon becoming law.

**CS/1ST ENG/HB 2145--Fish & Wildlife Conservation Commission
by Environmental Protection; Water and Resource Management;
Alexander; Dockery & Others**

(Passed as CS/CS/2ND ENG/SB 864 by Fiscal Policy; Natural Resources)

House Committee(s) of Reference: Water and Resource Management; Environmental Protection; Governmental Rules and Regulations; General Government Appropriations

The bill addresses the requirements of Revision #5 to the Florida Constitution passed by a majority of the voters in the November, 1998 General Election. The bill transfers the Game and Fresh Water Fish Commission (GFC) and the Marine Fisheries Commission (MFC) to the Fish and Wildlife Conservation Commission (FWCC) by a type two transfer as authorized in s. 20.06, F.S. Effective July 1, 1999, the GFC and the MFC are abolished.

The administrative structure of the FWCC is created to include a Division of Freshwater Fisheries, a Division of Marine Fisheries, and a Division of Law Enforcement. The FWCC is authorized to establish the same bureaus and offices as exist within the GFC. The bill transfers bureaus and offices from the Division of Marine Resources and the

Division of Law Enforcement at the Department of Environmental Protection (DEP) to the FWCC. In particular, the Florida Marine Research Institute (FMRI) is transferred from the Division of Marine Resources at DEP and established as a separate budget entity within the Office of the Executive Director of the FWCC.

DEP is authorized to retain a Division of Law Enforcement to house the Florida Park Patrol and other enforcement bureaus and offices maintained at the department. A Division of Aquaculture is created at the Department of Agriculture and Consumer Services (DACS) to house the Bureau of Marine Resource Regulation and Development which is transferred from the Division of Marine Resources at DEP.

The bill requires that the FWCC implement a system of adequate due process procedures to be accorded to any party whose substantial interests will be affected by any action of the commission. The commission is encouraged to incorporate the provisions of s. 120.54(3)(c), F.S., when adopting rules in the performance of its constitutional duties. The bill also requires that the provisions of chapter 120, F.S., shall be accorded to any party whose substantial interests will be affected by any action of the commission in the performance of its statutory duties. In addition, comments submitted by the commission to a permitting agency on a proposed permit, license or authorization must be received by the permitting agency within a specified time, and must be based on credible, factual scientific data. Comments provided by the commission are not binding on the permitting agency.

The bill identifies funding sources for the FWCC and revises portions of the Florida Statutes to conform to the provisions of Revision #5. In sum, the bill authorizes the transfer of more than 1700 FTEs and more than \$150 million from the GFC, the MFC, and DEP to the FWCC.

The effective date of this bill is July 1, 1999.
